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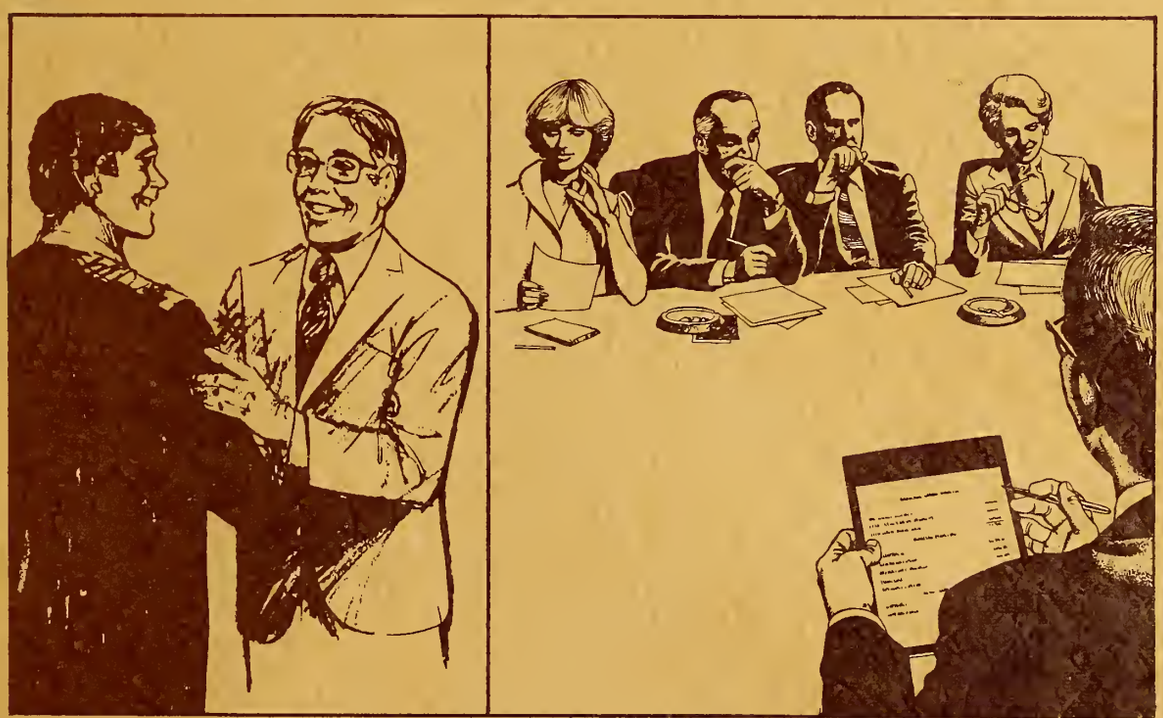

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# WORKING WITH CONSULTANTS

Guidelines for Community Leaders

prepared by:

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P.O. Box 272
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Published by: The Montana Department of Commerce
Community Assistance Program
Helena, Montana 59620

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# WORKING WITH CONSULTANTS

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DISCLAIMER/ABSTRACT/ACKNOWLEDGEMENTS

Abstract:

The information contained in this document was prepared by ROKITA/ASSOCIATES, INC. pursuant to a contract with the Montana Department of Commerce. Funding for the project was provided by the Montana Coal Board, the Farmers Home Administration (601 program) and the Montana Department of Commerce.

The WORKING WITH CONSULTANTS manual was designed to provide an overview of the process of soliciting and working with consultants, to increase the planning and management skills of local officials and to supplement training sessions.

Disclaimer:

The opinions expressed herein, unless otherwise stated, reflect the observations, research and opinions of the Contractor's staff and should not necessarily be construed to represent the Montana Coal Board, the Montana Department of Commerce, the Farmers Home Administration, or any other individual or group with which ROKITA ASSOCIATES, INC. may be affiliated.

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# PART ONE

## *Introduction*

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# Part One

## 1.1 INTRODUCTION

The advent of coal development and energy exploration in eastern Montana during the past ten years has placed increased demands upon units of local government. Because increasing populations mandate a need for improved law enforcement, new sewer and water systems, new schools, better health care and social services, and more effective management of government resources, the need to increase performance has required local governments to look beyond internal capabilities. Since most communities in Montana's coal development area are rural, the financial ability to maintain a full-time staff of specialized professionals is nearly impossible. Unfortunately, just because a community often contains a small population does not imply that the need for and variety of technical services are any less demanding than those of their urban counterparts. Often, however, in rural areas, staff, or elected officials have not had the benefit of extensive government training seminars nor a readily available core of in-house experts to make recommendations about each issue.

Therefore, this guide has been developed to provide assistance to communities who contract for professional services. This is not the ultimate document on the subject, but it does deal with the major issues a community must be concerned about.

The goals of this manual are really very straight-forward even though the topic is very complex:

Goal a. To provide Montana coal area communities reference and training related to the use of professional contract services.

Goal b. To increase the ability of local government staff, elected officials and consulting professionals to work together to accomplish in the most efficient manner possible to the mutual satisfaction of all concerned the stated goals of each community.

## 1.2 OVERVIEW

In order to accomplish the goals of this project, the text of this manual has been divided into two major areas. First, a variety of subjects have been isolated into modules referred to as "PARTS ONE, TWO, THREE, etc." And second, to provide detailed support data, a series of attachments called the "APPENDICES" have been included.

To present the information the PARTS have been organized into a logical time sequence,beginning with an initial overview, some early-on decisions that should be made, through the solicitation/negotiation/contract process and finally, concluding with evaluation activities. The modular organization and use of appendices allows the user of this document to employ whatever PART is the most needed and/or to review only those areas with which he or she is most concerned.

The information contained in this document is the result of many years of experience on the part of the authors, a summary of numerous interviews with city, town, state and federal officials as well as consulting professionals and representive societies and associations from which services are often obtained. In addition, countless publications were analyzed and screened for content and new perspectives. A Bibliography has been attached for those who wish to pursue any subject area in more detail.

# PART TWO

## *Consulting Services*

*

# Part Two

## 2.1 CONSULTING SERVICES

The selling of professional services to government is a large industry in the United States involving literally billions of dollars each year. In Montana alone, millions are spent for the aquisition of consulting services. Each year, units of state and local government purchase countless architectural and engineering services, surveys, grant services, planning studies, legal research, computer software development, data processing, program evaluation, curriculum, analytical studies, service delivery, information dissemination and management services. Generally, the term applied to the professionals who provide the services is "CONSULTANT". By definition a CONSULTANT is an individual who serves in an independent advisory capacity, separate and apart from the client for whom he/she is employed. The CONSULTANT is often engaged to provide technical data and offer professional opinions and views on situations presented, but normally does not supervise or

perform routine operating functions of the employer. Although not always a specialist, the CONSULTANT is an expert in a particular field or range of issues. It is the result of formal training, unique experience and/or distinctive professional background, that the CONSULTANT is able to make his/her advice of value to the client. And it is, in fact, the provision of said advice in a contractual situation that the CONSULTANT provides (sells) to the client.

## 2.2 MYTHS IN CONSULTING

As with any profession there are certain stereotypes and myths that seem to have been perpetuated through the years as though guided by an unseen force. Before one makes the decision to solicit a professional firm or individual, there is great importance in being aware of what the consultant can and cannot do. Listed below are a few common myths:

*MAGIC- Once the consultant is hired, all of our troubles are over, because they can do almost anything.

Consultants are a part of a process. Rarely, if ever, can a consultant provide an all-inclusive solution, however, obviously some people have greater skills than others, have access to more and/or better resources and are more able to identify the needs of a particular client. Sometimes when a client can find few answers to a problem, any answer or potential solution may seem like "magic", but more than likely the real "magic" is a culmination of organization, planning, integration of ideas, defining acceptable parameters and hard work. Remember, consultants are only a part of an overall process designed to accomplish certain goals.

*OBJECTIVITY- Because consultants are not internal staff they are objective.

The key to objectivity is that consultants, as a result of their unique position, can often be more objective than those more closely involved in an issue or problem, however, all people have biases. It is possible that the consultant has personal friendships, has been influenced by his/her own past practices or simply becomes emotionally engulfed in a project which may lead to the defense of actions or in supporting particular view points. Just because someone has the ability to assume a posture (objectivity) does not guarantee the use of that posture.

*TRANSFERABILITY- The consultant did it in town X, so they can do it for us.

Each community is different and even though certain concepts may transfer from one area to another area, it is highly probable that projects cannot be duplicated per se. What may be an acceptable solution to a particular community is totally unacceptable to another. The key to transferability lies both in the consultant's skill and ability to adapt key components or formats of past projects to new situations and community's ability to examine new solutions and/or redefine accepted parameters.

*SQUEEZE-A-BUDGET- We really don't have as much money as the consultant says is needed, so let's cut the budget and try to get the same service.

Since consulting services involve the aquisition of professional advice, the amount of money spent is directly correspondent to the amount of time that a consultant will spend on a project. No doubt certain individuals and firms can provide the same advice for slightly different amounts of money because overhead costs vary, as does experience and approach to the problem, but generally speaking the quality of level of service begins to suffer when one begins cutting budgets. The primary reason one uses a Request for Proposal or conducts consultant interviews is to obtain the best overall match between level and quality of advice and available funds.

*BIG PROFITS- All consultants are rich and are generally paid far more that they are worth.

Consulting firms vary just as much as any other business in terms of profit and loss, and each year literally thousands of consultants go out of business due to the lack of profit. Like other businesses the ability of a consulting firm to support itself is dependent upon fixed costs, variable costs and overall cash flow. While the common rate per hour is always higher than that of a person in an "employee" situation, there are numerous overhead costs built into each hour of service. A detailed discussion is provided later in this manual (see PART THREE).

*CONSULTANTS SOLVE ALL PROBLEMS- If we obtained a consultant he/she can solve all of our problems.

Community problems and issues are rarely solved entirely by the consultant. The actual solution to the problem occurs through a process of

interactions among people that develop and accept certain solutions. Sometimes, the consultant can cause more problems than he/she will solve because new issues are identified, the consultant acts unprofessionally or inadvertently offends someone, or is simply not cognizant of all the issues. There is great likelihood the consultant will be a problem rather than problem solver if the community does not have the time or skill to maintain a close liaison with the consultant.

*VAST SKILLS/BIG COMPANY- <u>If we hire a consulting company with a variety of skills, we will get the best job.</u>

While large consulting services usually have in-depth skills in their field of expertise, they are not always the best suited for the job. Large firms tend to have higher overhead rates (multipliers) and are often only able to deal with large projects. The needs of a small community may become a low priority compared to a large city/county contract. The essential point to consider is finding an acceptable balance among cost, priority, level of needs, type of skill required, and size of project. Match skills and costs to the project.

By simply being aware of some of the general myths about the consulting industry, one can increase the chances of obtaining the desired professional services with minimum stress and confusion. It is most important to recognize that for all the skills offered in the industry, the wealth of knowledge and for all the potential, the use of a consultant is only

a means to an end. It is equally important for each community to fully understand and accept the consequences of the process that will achieve the desired end. Consultants can assist in virtually every field of endeavor, but to sever all communications once a contract is signed is a sure invitation to disaster. Experienced consultants will provide options and alternatives as well as expert advice that can assist with implementation of those solutions, but it is only the decision makers and community that should decide upon alternatives and accept solutions.

## 2.3 NEED FOR A CONSULTANT

Consultants often inherit the roles of advocate, information specialist, trainer/educator, joint problem-solver, fact finder, objective observer, identifier of alternatives, linkages to resources, counselor, and/or analyst; however, one of the most difficult tasks is deciding when a consultant is needed. The following set of questions has been designed to assist community leaders with making that decision:

# Need for a Consultant?

| Yes | No | |
|---|---|---|
| ____ | ____ | 1. Do we have our goals and needs clearly defined? |
| ____ | ____ | 2. Do we have the in-house skills to perform the tasks needed? |
| ____ | ____ | 3. Do we have the time to complete the work required on time? |
| ____ | ____ | 4. Is the work specialized? |
| ____ | ____ | 5. Does the job require full-time or on-going services? |
| ____ | ____ | 6. Were our previous attempts at solving the problem unsuccessful? |
| ____ | ____ | 7. Is time a factor in accomplishing the task? |
| ____ | ____ | 8. Do we require a second opinion on existing work or is external certification needed? |
| ____ | ____ | 9. Is the project long or short term in nature? |
| ____ | ____ | 10. Are we generally uncomfortable with our performance on past attempts to solve the problem? |
| ____ | ____ | 11. Are we getting "bogged down" in day to day issues and work? |
| ____ | ____ | 12. Are we generally unhappy or dissatisfied with our in-house skills and technology? |
| ____ | ____ | 13. Do we want or need new opinions and/or alternatives? |

## 2.4 ADVANTAGES AND DISADVANTAGES OF CONTRACT SERVICES

There are no comprehensive statements that will apply to all contractual agreements in terms of advantages or disadvantages. Too many variables exist. What may be an advantage for one community may be clearly a disadvantage in another.

The U.S. Department of Interior, H.C.R.S., like many other agencies has issued guidances for consulting use. In the publication Contract Services Handbook: Issues and Impact for the Park and Recreation Manager, an excellent summary of positive and negative impacts exist.

Review of the following list may assist with your community's assessment of contract impacts:

# CONTRACTING
# IMPACTS-AT-A-GLANCE

| POSITIVE | NEGATIVE |
|---|---|
| Contracting out provides budget control; there is one fixed, known cost segregated from the remaining budget. Contracting proves that work costs money. | Contracted services and programs are more easily "lopped off" during budget crises. |
| Agency employment rolls and pension obligations are reduced. | Increased paperwork is required to draw up, administer, and enforce the contract. |
| Capital outlay can be kept at a minimum since contractors invest in their own equipment, tools, supplies and storage. The agency need not acquire specialized items. | Estimated cost savings may be offset by "hidden" and up-the-road costs from incomplete or faulty work. |
| Profit motive gives contractor the incentive to keep costs down | The pressure to cut costs may result in inferior workmanship or materials; low bids by unqualified contractors can mean facility deterioration. |
| In-house staff morale may improve if they are no longer asked to do routine or unpleasant work. | Over reliance on contracting may leave agency without leverage to insure a fair price, especially if suppliers are few. |
| Personnel problems are reduced. Contractor can fire unproductive workers; the public is saved the inconvenience of striking employees. | Loss of in-house jobs or promotions can effect staff morale, as can decreased job diversity and training opportunities. |
| Profit sharing plans can provide contractors' employees with greater motivation to "hustle". | Some lack of direct control is inevitable since full-time supervision would drive up total contract cost. |
| Liability from maintenance operations may be reduced; in-house staff avoids hazardous work. | In-house personnel may know their own work sites best. |
| The time and cost of in-service training can be minimized for highly specialized work, with less chance of expertise deteriorating. | Contractor will be less sensitive to public agency objectives and the user public. |
| Contractor equipment will likely be superior and up-to-date. (Contractor is unconstrained by budget cycles and low bid requirements). | Contractor may be less responsive to day-to-day changing conditions than in-house staff (whose work is not delineated in a written document). Contractor may lack the special touch to handle the unique situation. |
| Work continuity is undisturbed by vacation; the contractor, bound by contract, rotates his staff as needed. | Additional security measures may become necessary, since the contractor has no rules enforcement responsibility. |
| Agency will have greater flexibility to handle overloads from seasonal, unexpected and emergency work. In-house staff need not be large enough to handle every contingency; jobs requiring "half a man" can be handled with no waste. | Special coordination may be needed to insure that contractor schedules will not conflict with programs or inconvenience users. |
| Contracting can allow agency to reach longer range goals (e.g., turf establishment) without driving up operating costs. Conversely, in house expertise can be freed from routine work. | Agency may lose some in-house backup capability to meet unknowns and emergencies. |

Source: *Contract Services Handbook. Issues & Impacts for the Park and Recreation Manager.* U.S. Department of the Interior, Heritage Conservation and Recreation Service, page 26.

# PART THREE

## *Pre-Contract*
(the process)

*

# Part Three

## 3.1 PARAMETERS OF CONSULTANT USE

The process of engaging and utilizing a consultant can be easily described as a three phase procedure: (1) pre-contract, (2) performance or production, and (3) post-contract. Each phase consists of a series of activities which involve various levels of interaction between the unit of government and the consultant.

The following sections and associated appendices offer an overview of the activities that should be performed within each phase. However, it is imperative that common sense prevail when applying any of the procedures contained in this document. For example, if a community has determined that a small amount of funds will be expended for a task, it is unreasonable to apply the same process that one would use for a large expenditure and complex set of tasks. Generally speaking, the process remains the same for all projects but, the scope of the selection, performance and post contract activities varies depending on the type, complexity and expense of the project.

## 3.2 PRE-CONTRACT

The pre-contract phase of obtaining a consultant for a project requires the maximum level of involvement by the entity proposing the

# Part Three

## 3.1 PARAMETERS OF CONSULTANT USE

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## 3.2 PRE-CONTRACT

The pre-contract phase of obtaining a consultant for a project requires the maximum level of involvement by the entity proposing the

contract. Failure to adequately consider all components within this phase at the very least may lead to poor performance and at the most extreme may require litigation, fines and re-payment of funds. The pre-contract phase of contract development is undoubtedly the most important of the three phases because it establishes all of the base-line parameters for the work that is to be performed. The schematic flow chart #3.2a outlines the activities that should be considered before entering into any agreement with a consultant.

## 3.3 SOLICITATION CONSIDERATIONS

Long before a community affixes a signature to the proverbial dotted line on a contract, there are a number of factors that should be considered. The following is an overview of some of the most important issues. More detailed ancillary and supporting data is referenced by APPENDIX.

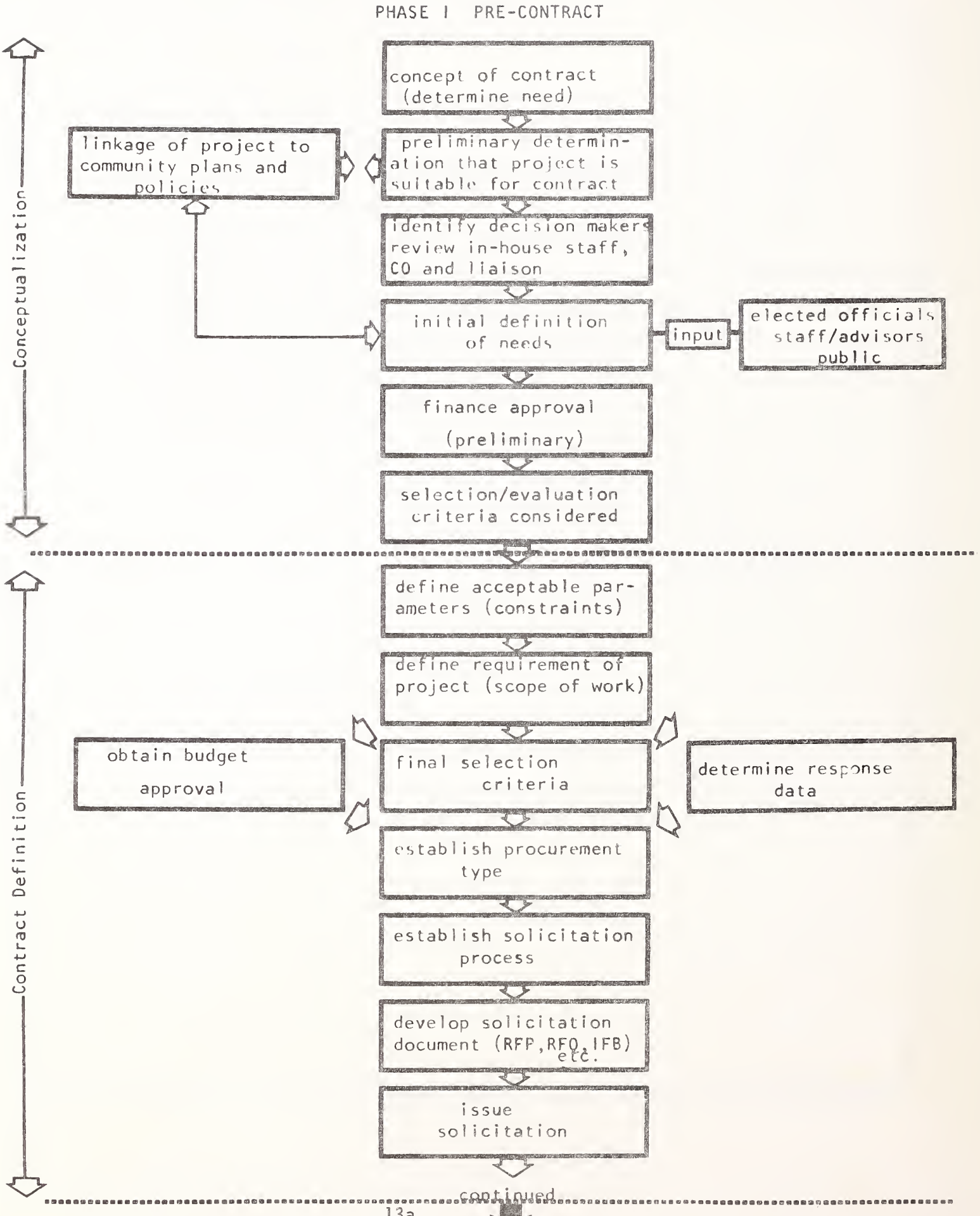
### 3.3.1 CONCEPTUALIZATION

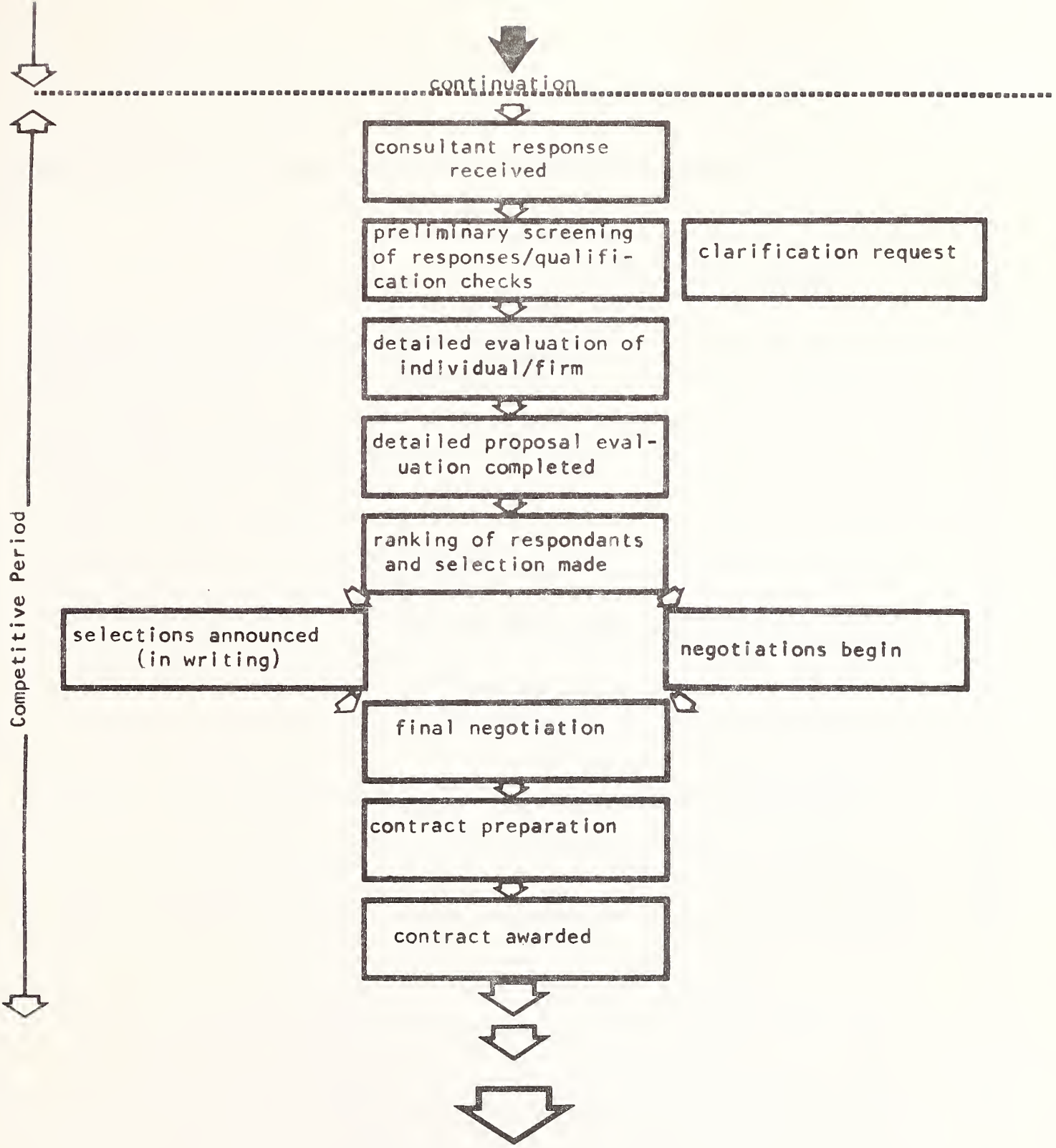
While it sounds somewhat obvious to say that some one, or group, must decide that there is a need before any project begins, there is considerable merit in being aware that a process exists through which needs are identified, concerns expressed, and decisions made. Within that process is one key facet often overlooked. Sometimes a decision is made to seek a consultant, when, if fact, the use of a consultant is inappropriate. On the other hand, in an effort to use

in-house staff often their capabilities are exceeded, which results in wasted time and expenditures. In those cases, the services of a consultant are quite justified and necessary.

During the conceptualization process, it is important that all key personnel be involved. To ignore an elected official, a key staff member, an advisory group or existing relationship may jeopardize an entire project without regard to need or merit. Often existing staff feel intimidation, animosity, and neglect when a consultant is hired. A small dose of courtesy and information often relieves most fears. Among the highest priority in concept design is to formalize the list of in-house persons that will act on behalf of the local government unit. The list may include elected officials, administrators, key staff, department directors, advisory personnel, the public, a liaison and a contract officer (CO). While the list of individuals involved with any project may vary greatly, one position is central to every project-the contract's officer. By definition the contract's officer is either the person who actually signs the agreement with the consultant and/or is a designated liaison who performs contract coordinating/monitoring functions. Contract officers are, in effect, the official representative for the entity purchasing the services.

3.2a Flowchart of Typical Procurement Process






(flow chart 4.1a)

### 3.3.2 DEFINING SCOPE OF WORK

A SCOPE OF WORK simply refers to the listing of products one expects the consultant to achieve. In most communities it is likely that the scope of work will be constrained more by budget limitation than need. It is rare when a community has sufficient funds to pay for the level of consulting service desired. Therefore, given these initial budget or project constraints, the individual and/or committee should prepare a detailed scope of work. If one has no idea how to perform that task, there are several ways to approach the problem. Options include, but certainly are not limited to:

- ☐contact a related professional association for guidance
- ☐contact a neighboring community
- ☐contact the universities
- ☐contact a "disinterested" professional firm
- ☐contact a retired professional

Not only will these groups be able to offer advice regarding solicitation requests, but they also provide an excellent source of information for locating potential consultants.

If one still is unable to determine what should be placed in a scope of work, simply publish a notice in major newspapers in the legal section, stating that your community is accepting "concept papers". (see APPENDIX'A' for sample notice and 3.3.7 for a more detailed discussion.) The concept paper approach means that the purchaser explains the problem as best he/she can and includes a preliminary budget. Consultants respond with ideas regarding potential solutions which form the basis for negotiations.

When preparing a scope of work there are a number of areas that should be considered. The following is an overview of items that will increase the effectiveness of a Scope of Work and a Request for Proposal (R.F.P.):

3.3.2a Scope of Work Checklist:

| Yes | No | | |
|---|---|---|---|
| ____ | ____ | 1. | Are the objectives clearly defined? Will the consultant know what is required? |
| ____ | ____ | 2. | Is the Scope of Work clearly tied to a budget amount or a clearly identified level of service? |
| ____ | ____ | 3. | Are schedules defined in a manner that clearly states time constraints? |
| ____ | ____ | 4. | Is the level of input from the local government and the roles of staff clearly identified? |
| ____ | ____ | 5. | Have the desired skills been identified? |
| ____ | ____ | 6. | Has the method for ranking responses been identified? |
| ____ | ____ | 7. | Have technical submission requirements been established? (i.e. format, number of copies, deadlines, addresses, etc.) |
| ____ | ____ | 8. | Does the Scope of Work establish products, performance standards and related expectations? (i.e. copies of reports, meetings that must be attended) |
| ____ | ____ | 9. | Is the Scope of Work and R.F.P. written in an easy to understand fashion? Is it clear, concise and to the point? |
| ____ | ____ | 10. | Does the document describe uniform cost submission formats? |

### 3.3.3 CONTRACT PAYMENT SELECTION

Even though the budget ceilings may be approved and even though the scope of work may be sufficiently detailed, there are still other planning and fiscal areas that must be considered. One of the most critical is the selection of the type of contract that is offered to the consultant in the solicitation.

At a minimum there are the following types of contracts that may be pursued. (Note: APPENDIX 'B' provides a more detailed example of each contract.)

1. Fixed fee
2. Fixed fee with escalation triggered by certain definable conditions
3. Fixed fee plus an incentive
4. Fixed fee with reconsideration
5. Cost sharing
6. Cost reimbursable
7. Cost plus incentive
8. Cost plus a fixed fee (no ceiling)
9. Cost plus a fixed fee (with ceiling)
10. Time & materials
11. Unit price based on deliverables
12. Retainer
13. Intent letter
14. Basic Order Agreements (BOA) or Work Order Contract (WOC)

There are obviously numerous methods by which a consultant may be engaged and selecting the most appropriate method is not always an easy task. But, there are a few considerations that may help with the process.

- How complex is the work required in terms of service? (large, long-term projects require more complex contract payment procedures than small, short term projects)
- How much money is involved? (small contracts may require only direct fixed fee for the sake of cost efficiency)
- How urgent is the task or severe the problem? (the need for expediency may pre-empt detailed contract negotiations)
- How much administration is anticipated? (high administration may favor fixed fee agreements)
- Is the contractor experienced? Does he/she have an established record of performance? (one may choose a format that provides a moderate level of risk for the local government and moderate risk for the consultant; however, inexperience requires that the consultant take the high risk)
- What kind of benefits and incentives can be built into the agreement? (if legal incentives can be built-in, the purchaser may select a flexible arrangement)
- Do you have access to accurate wage and price data with which to compare responses?
- What amount of risk is the purchaser willing to assume?
- What is the technical level and financial capability of the consultant?
- What is the difficulty factor and how many unknowns or potential cost influences are involved?

While all of these factors coupled with the wide array of contract types may seem confusing, data from state and national sources indicates that "cost reimbursable" and "fixed fee" contracts account for more than 80% of all public contracts awarded to consultants. The off-shoot hybrids account for less than 20%. Three factors may contribute to that unusual balance: (a) neither consultants nor purchasers are familiar with the variety of acceptable formats, (b) hybrid contracts are highly specialized and often negotiated for products that are far more unique than are found in standard professional service agreements and (c) cost reimbursable and fixed fee contracts require less work to monitor and make payments.

### 3.3.4 LEGAL CONSTRAINTS

The development of a solid base for working with consultants is a time consuming and demanding task. Not only must one determine exactly what is to be purchased and the method of payment for the service, but there are other factors that limit contract options. The most significant are the rules, regulations and laws that apply to the project. Generally speaking, the rules that apply are defined by two areas: (a) those that apply to the governing (contracting) body and (b) those that are attached to the source of funding. While the rules may be the same, often a local government finds itself administering state and/or federal funds which automatically trigger a different set of guidelines.

The following is a brief synopsis of rules that may apply to projects:

* NOTE: ALWAYS ASSUME THAT THE MOST RESTRICTIVE RULE APPLIES. (Example: If the funds are Federal in nature and the governing Federal rule is more restrictive, then it must be applied even though city, county or school may be operating the program).

A. Cities and Towns

MCA Title 7 Part 43 Municipal Contracts and Franchises Reference: 7-5-4301 Power to enter and execute contracts.

(1) The city or town council has power to make any and all contracts necessary to carry into effect the powers granted by this code and to provide for the manner of executing the same.

(2) All necessary contracts for professional, technical, engineering and legal services are excluded from the provisions of 7-5-4301 through 7-5-4304, 7-5-4306 and 7-5-4307.

B. Counties

There are no state or federal laws that mandate a county use a particular system when procuring professional services; therefore, it is the responsibility of the county official, in the performance of

their duty as elected officials to develop a procurement system to safeguard the public interest. Failure to protect the public interest can be challenged by both court and legal recalls as a form of remedy.

Remember even though the county may not have procedures, often other funding sources do have requirements.

C. School Districts

MCA Title 20 Chapter 6 Section 631 (implementation level)

"Whenever the estimated cost of any building, furnishing,repairing or other work for the benefit of a school district exceeds $50,000 and requires architectural services, such services shall be advertised".

MCA 20-6-633 (fee negotiation)

"After selecting a firm, the trustee shall negotiate with the selected firm a fair and reasonable fee for the architectural services as described by the school district's scope of work. In the event the trustees and the firm are unable to negotiate a fair and reasonable fee, the trustees may select another firm, provided the trustees again give reasonable public notice of their selection".

MCA 20-6-635 (Montana preference)

The trustees are encouraged but not required to award architectural contracts to firms based or operating in Montana.

D. Special Improvement Districts

Whether formed under the auspice of a city, town or county, the basic authority of the SID is found in the charter document (By-Laws). It is at that point legal counsel, engineers and other professionals are identified. There is no specific procedure in state law that defines additional consulting procurement and therefore, in accordance with the regulations governing local governments, the governing body of the SID or local unit of government will make the procurement process decision. (Reference: Title 7, Chapter 14, Part 27).

E. Federal Funds

The overall guidance for the contracting professionals where federal funds are to be used in whole or part in Office of Management and Budget (OMB) Circular A-102; attachment "O". This circular defines procurement methods and requirement selection procedures, exemptions, record keeping and contract provisions (see APPENDIX 'E').

In summary, OMB A-102 requires that any professional service purchased with Federal funds in excess of $10,000 shall be advertised and negotiated, unless the project mandates an exemption. Exemptions include:

a. sole source based on unique knowledge
b. emergency situation

### 3.3.5 OTHER CONSIDERATIONS

Time- Both the amount of time required by the consultant to complete the project and the amount of time desired by the purchaser must be considered.

Coordination- Review Teams are a valuable asset to the solicitation of any consultant. They can offer diverse points-of-view, expanded knowledge about the field of endeavor and a unified concensus regarding the most qualified applicant. Review Teams are usually recommeded to assure a non-biased selection.

### 3.3.6 SELECTION CRITERIA

Before a consultant is sought, but after decisions are made regarding budgets, schedules and scope of work, one should develop and write down the selection criteria. The selection criteria is the most important feature desired of the consultant.

Under certain conditions, such as when using federal funds, the purchaser is required by regulation to advise respondents of the basis upon which a contract will be awarded. It is not necessary to detail the factors that will be considered in terms of "weighing" or "point-system" ranking, but one should always make the potential consultant know what is desired and where the response emphasis should be.

In any case, the purchasing entity should establish criteria that will provide for complete and uniformly applied analysis of each response. If a consultant feels as though he/she was treated unfairly and elects to appeal the decision, eventually the ranking criteria and applied use will be scrutinized.

The following list of selection criteria offers an overview of the areas most often considered:

- Required thresholds
- Understanding and interpretation of the problem
- Consultant qualification and experience
- Personnel assigned to project
- Availability of time
- Work statement, flow chart analysis, and scheduling
- Outstanding approach (soundness)
- Availability of facilities, staff and other resources
- Cost of service
- Did the consultant follow the solicitation document in his/her proposal?

For additional reference two evaluation formats are attached in the APPENDIX 'C'.

## ADDITIONAL RANKING CONSIDERATIONS

Consultant: _____

Evaluator: _____

Date: _____

Project: _____

---

| YES | NO | | |
|---|---|---|---|
| ____ | ____ | 1. | Did they follow the format? |
| ____ | ____ | 2. | Are their deliverable products clearly and completely identified? |
| ____ | ____ | 3. | Did they mention protection from conflict of interest or a code of ethics? |
| ____ | ____ | 4. | Do they offer extra services? |
| ____ | ____ | 5. | Do they provide any specialized skills that others do not possess? |
| ____ | ____ | 6. | Can they prove the accuracy of their work (i.e. cost estimating, completion schedules, etc.)? |
| ____ | ____ | 7. | Have they provided demonstrated knowledge (actual examples of past work)? |
| ____ | ____ | 8. | Do the references represent a variety of satisfied clients? |
| ____ | ____ | 9. | Do they volunteer additional information, demonstrate overall effort and desire to secure the job? |
| ____ | ____ | 10. | Do they offer an in-depth service commensurate with the task(s) at hand? |
| ____ | ____ | 11. | Does the consultant inspire trust and confidence? |
| ____ | ____ | 12. | Is this a new area for the consultant? |
| ____ | ____ | 13. | Does the response address the problem or the consultant's favorite activity? |
| ____ | ____ | 14. | Are client-consultant liaisons defined? |
| ____ | ____ | 15. | Has the respondant been honored by a professional society or agency for outstanding work? |
| ____ | ____ | 16. | Have you worked with the consultant before (satisfactorily or unsatisfactorily)? |

### 3.3.7 PROCUREMENT METHODS

By most standards, when soliciting professional services there is a considerable difference between the methods employed by private business and units of local government. Government oriented solicitations tend to be far more formalized than those of private business, with an emphasis being placed on fairness, efficiency and protection of the public interest. To best serve those goals, often government units use the RFP method of procurement. However, there are numerous methods of solicitation that may be employed which will accomplish the same end and which may (depending on the circumstances) be more efficient or desirable. While specific approaches depend upon many factors (i.e. the complexity and size of project, community preference, time frames, etc.) the overall goals change very little.

The following is a list of solicitation methods accompanied by a discussion to provide an overview:

#### ✻ REQUEST FOR PROPOSALS (RFP)

Of all the formal solicitation methods, the RFP is undoubtedly the most common. By both use and definition, the RFP is a complete solicitation document that includes all of the terms, conditions, expectations and technical data the purchaser intends to include in the final contract. It contains a statement of the problem, accompanied by acceptable parameters and asks the consultant for a proposed solution, often including time, methods and costs. When the consultant responds

he/she is making a formal offer to perform specified services in accordance with the solicitation. Often the response is accepted as is, with little or no opportunity to negotiate tasks or costs. The RFP should be sufficiently complete to develop a final contract. RFP's rely heavily upon technical creativity and level of service, instead of costs. Even though cost is a factor that should be considered, the old axiom "you get what you pay for" applies to most consulting agreements. Time is the commodity being purchased and therefore, the more one pays, the more consulting time one should be able to buy.

Because each project and each organization that issues an RFP is different, RFP's often appear in a variety of formats. In general, however, they contain the same kinds of information. A sample RFP is attached as APPENDIX 'D'. Although the order and length depends upon purchaser preference, the following list details a standard table of contents for RFP's:

EXAMPLE: RFP Table of Contents

1. Title Page (project identification)
2. Introduction (project overview)
3. Purpose and Requirements (project intent, services required, statement of need, level of services and tasks)
4. Funding (dollars available and type of contract)
5. Project Liaison (local contact person)
6. Right of Rejection (community protective clause)
7. Consultant Data Required (often threshold factors)
    - Firm name
    - Address
    - Telephone
    - Firm principals and project liaison
    - Date established and location of headquarters office
    - Bonding and Insurance
        - Type
        - Amount
        - Company
    - Statement of Qualification (often as attachment)
    - Experience
    - Current Project (sample)
8. Proposal Response Data (from consultant)
    - Understanding and approach to problem
    - Scope of services offered
    - Chart of personnel commitment
    - Proposed starting and completion dates
    - Unique project requirements or skills offered
    - Cost analysis
    - References
    - Special comments
9. Technical and Informational Response Data
    - Evaluation
    - Number of copies
    - Time deadlines
    - How to obtain additional information
    - Maps (if needed)
    - Special project notes
    - Special forms

## REQUEST FOR QUALIFICATIONS (RFQ)

Like the RFP, the RFQ applies more emphasis to creativity and solution design, than to price. The major difference is, however, the RFQ format allows much more latitude for cost and task negotiations. As is implied in the name, QUALIFICATIONS of the consultant is the key. The assumption is that once the most qualified firm is selected, then discussions will begin regarding approach, costs, schedules, contract formats, etc. It is not unusual for a consultant firm to submit a work and problem analysis statement to enhance the RFQ response, but in a purebred RFQ that is unnecessary.

When employing the RFQ process, it is not uncommon to isolate desired characteristics in the solicitation. Detailed individual and company resumes are mandatory. Considerations related to the RFQ include:

- The consultants past experience
- Location of the firm
- Current work load of the firm
- Specialized experience
- Privileged knowledge
- Proven capacity to perform
- Management System employed (depth of staff)
- Flexibility/diversity
- Response capability
- Facilities
- Other resources

## ✳ INVITATION FOR BIDS (IFB)

The IFB process is used extensively by the Federal government on procurements in excess of $10,000. In fact, standard form SF33 "Solicitation Offer and Award" is the multifunctional inter-agency document used to standardize the process. While the form isn't mandatory, the consultant choosing to use other documents risks errors in submission and subsequent disqualification. Form SF33 provides detailed instructions including bid forms, deadlines and special conditions. The IFB's are treated like construction and other material purchases, they remain sealed until an appointed time, are opened and read aloud publicly and detailed information and pertinent ranking data is abstracted into prescribed formats. As with any bid of this nature, the public may attend and formal protest recourse is available to the bidders.

The IFB requires extremely detailed statements and work scope as well as very precise cost/task analysis. Unless, the project is very well designed, the solution and processes known and the unit of government administratively sophisticated, the process is usually avoided.

At the Federal level, IFB's are usually found in Business Commerce Daily. Most states do not have an equivalent publication.

## ✻ CONCEPT PAPER (CP)

The Concept Paper (CP) approach to locating a consultant is rarely used; it is highly effective under certain conditions. It is distinguished from the RFP, IFB, and RFQ in that the primary emphasis is placed on new and original solutions to seemingly insoluble problems. While credentials, similar to the RFQ are requested, the greatest concern is the solution. To the greatest extent possible responses are ranked on originality, design and cost effeciency, concept, theoretical approach, replacability, suitability to the situation, duration of solution, likelihood of success and staff integrity. The solicitation allows the maximum amount of creativity and therefore, also draws both the highest risk against successful completion and highest benefit if complete.

## ✻ SOLE SOURCE PROCUREMENT (SSP)

There are numerous reasons to justify the decision to solicit only one response; however, when federal dollars are involved both extreme caution should be tied to the decision and prior approval obtained.

Sole source procurement means exactly what is sounds like. The client/purchaser simply selects one firm and negotiates an agreement for specific services. When Federal dollars are involved, OMB Cir. A-102 attachment "O" provides guidance to local governments. Common justifications for sole source agreements are:

- The consultant has proprietary knowledge that no other firms/ individuals possess.
- The consultant has a monopoly on a special technology.
- There is only one firm available after solicitation
- The issue with which the solicitation deals is a bonafide emergency which would be injurious to the public interest.
- The solicitation issue involves national security and/or privileged documents.
- The contract is a reasonable continuation for which using any other firm would place undo cost upon the public and/or excessive time delays.
- The amount of funds involved is too small to justify the administrative expense of a full procurement solicitation.
- The scope of work or volume is so large that only one firm can complete the task.
- Highly specialized and/or unique certified persons and facilities are required to complete the task (special licenses, etc.)

## UNSOLICITED PROPOSALS

An unsolicited proposal is where a consultant proposes a solution or work plan to an existing problem to a potential buyer on an unrequested basis. While this is not a procurement method, it is widely employed by consulting professionals as a means of creating work for the consultant and/or addressing a special need that either no one else was able to solve or thought of solving. The unsolicited proposal is often the product of numerous conversations with potential purchasers and serves to bridge the gap where Concept Papers would ordinarily be required.

For local governments, the acceptance and/or rejection of an unsolicited proposal is a decision that rests with local governing bodies, more than being bound by formal rules or laws. However, if state and/or federal funds become involved, certain rules and regulations are enforceable. If, for example, the State of Montana is paying for the unsolicited proposal and if the proposed amount exceeds five thousand dollars, then the registered list of active consultants must be notified. Depending upon the funding agency, contracts under $100,000 may be "short-listed", a term that applies to the notification of a limited number of firms. If, on the other hand, Federal funds are used and the proposed contract amount exceeds $10,000, OMB A-102 Att. "O" takes effect. A public solicitation is then in order even though a particular consultant proposed the project.

Unsolicited proposals traditionally take either one of two forms: (1) the general RFP response format or (2) a query letter that details the concept and defines the consultant's credentials. There is no legal obligation on the part of local officials to act on unsolicited proposals other than the fashion that would be employed to respond to any public service request.

## 3.4 THE SOLICITATION PROCESS

In order to solicit response to a job offering, consideration should be given to the issue of an appropriate offering. Two major factors will influence the solicitation process: (a) the type of firm desired and (b) the method of solicitation.

Before deciding upon the type of firm or method of offering, there is some merit in the review of the rationale other organizations apply to the process. The World Bank, for example, invites three to five firms to submit responses to study assignments. Their experience has been that the quality of proposals will not increase, but actually decrease, as the number of firms respond. In addition, the World Bank also recognizes that the cumulative cost of response preparation becomes excessive when a large number of firms are involved and as a result the proportioned success ratio reduces per capita, which in turn must be ultimately reflected in higher overhead charges.

In England, and parts of Europe the issue becomes more price oriented. Even in construction bids, both the high and low bids are excluded and an average price and scope of work selected. The theory is quite simple. It is felt that both middle range consultants and contractors will bid and propose work scopes that are the most realistic. The process eliminates the low estimate which may not provide the best approach.

The policy of the U.S. Government, by contrast to World Bank and different from Europe, stated in the Federal Procurement Regulations 1-3, 101 (C) "Whenever property or services are to be procured by negotiation, proposals shall be solicited from the maximum number of qualified sources, including small business concerns, consistent with the nature of and requirements for the supplies or services to be procured". With that statement, the U.S. Government establishes an

open-door policy for the solicitation of services. There are, of course, other considerations that will affect that policy which may help interpret the extent of applicability. For instance, services costing less than $10,000 can be negotiated without advertisement. Also, one should recognize that small business in the U.S. means a business with less than 500 employees.

By contrast to the process described above, the solicitations by state agencies vary greatly. Generally, Montana law states that any solicitation in an amount less than $5,000 can be done through direct negotiation with one firm without advertising. Any solicitation over $5,000 requires notification of the consultants on the agencies active consultant list. And, it is important to note that each agency handles the matter differently. For example, the Department of Administration, A/E Division, solicits only three firms for projects under $100,000 in value and uses its standing list for projects that exceed $100,000. Based on responses, they rank and short-list the acceptable firms to three, of which one is selected. State Lands publicly announces all projects in excess of $5,000 in newspapers and also sends a notice to the vendor list maintained in-house. They rank and interview three firms. The State Highway Department advertises in newpapers when the work exceeds $10,000 and seeks responses based on a list of pre-qualified firms. In all cases, each Department has written procurement procedures designed to ensure free and fair competition.

Cities and Counties by policy can create their own procurement procedures, because there is literally no state law that mandates a specific procedure for obtaining professional services; however, remember the

the source of funds, if not entirely local, may require restrictive and prescribed procurement methods.

With that background to help guide local solicitation processes, one can make necessary decisions to ensure the public interest is best served.

## * PRIVATE VS PUBLIC CONTRACTS

One area that must be considered is, should the community contract with a private (for profit) consulting firm or a non-profit consulting group? The only way to make that determination is to evaluate the pros and cons of the action. The issue is far too complex to consider in detail in this document,but listed below are some traditional concerns expressed. Remember when viewing non-profits there are basically two types that perform consulting work: (a) publicly funded and (b) private. The private non-profit may differ very little from a private profit making firm and sometimes maintains the status in order to compete for grants.

- *Philosophically, non-profits may find themselves competing with profit making firms thus promoting a non-competetive business society.
- *Consulting firms expect to make a profit and consequently, usually cost more.
- *Non-profits (universities), have access to inexpensive labor and as a result can keep costs down.
- *It is often difficult to litigate and control a public entity if they do not perform.
- *Often public agency contractors (universities) have access to greater resources.
- *Non-profits seldom have service to the client as a primary goal.

## *LARGE FIRM VS SMALL FIRM

In reviewing whether or not to use a non-profit or profit making firm, the central issue is obtaining the best match between firm skills, quality of work, cost and the deliverence of a final product. Consulting services range in firm size from the individual who is "moonlighting" or the retired person using the income to supplement retirement or simply for the pleasure of contributing and being active, to the multi-national consulting firms with hundreds of employees and a multitude of technical skills. Some factors one may want to consider are:

- *Big is not always better. You may not need a staff of 200 people to complete a small project. On the other hand, if the project is large and complex, the skills and depth of a large firm may be necessary to adequately complete the task.
- *Small is usually limited in terms of scope of services, in-house backup personnel and the ability to adjust schedules rapidly.
- *Large firms often have more overhead than small firms (i.e. offices to maintain full-time administrative and secretarial staff).
- *Personal attention by the firm principal is often more associated with small firms.
- *Diversity is a strength often offered by large firms.

In the final analysis, a better response may be obtained if the purchaser decides what level of service is needed and whether a large or small firm is needed. Sometimes a coalition of two small firms may utilize the strengths of both to meet a special need.

✱ IN-STATE VS OUT-OF-STATE

There is often a negative stigma associated with the use of out-of-state firms; however, before a carte blanche decision is made to not consider out-of-state firms, a few thoughts should be considered. First, the cost of an out-of-state firm may be higher or aligned differently due to travel, time and expense. On the other hand, to limit the respondents to in-state only may be a dis-service to the community because it may also limit the options and skill that could be purchased. While out-of-state firms may not have a strong perception of unexpressed community needs and attitudes, they may bring a level of professionalism that offers new ideas. Depending upon where one lives, out-of-state may be only a few miles across the border or it may be several hundred. There may well be more distance involved in obtaining in-state service. In the final analysis, if all factors are equal, the public relations aspect should be considered. The community may prefer the work to be done locally or may, in fact, desire the anonymity of an out-of-state group.

## 3.3.6 SOLICITATION OPTIONS

There are numerous methods that can be employed to locate the best consultant (see 3.3.7 Procurement) but, even if one has selected the best method, the problem of how to issue the solicitation still exists. There are several alternatives to consider:

★Newspapers- General advertisement in the legal section usually generates a variety of responses (greatest number) appropriate for large projects.

★Trade journals and magazines- Targets the audiences but requires a longer lead time than newspapers. Will elicit a large number of responses, but the overall quality will improve. Often the distribution is more comprehensive.

★Word-of-mouth- Not a legal method of advertising if legal publication is required; however, it is effective for small jobs that require expediency. Will generate limited responses and not necessarily the best.

★Short-list or standing list- Most communities have a list of interested consultants who stay in contact with them. Depending upon the legal and funding constraints, one can simply mail the solicitation to pre-qualified firms. This saves time and generally is an accepted practice for smaller projects.

★Sole-source- In this case, once the qualifications and need for a sole-source agreement has been determined, one simply notifies the only qualified consultant (a sensitive method of procurement). BE CAREFUL.

★Contact Other Communities, Universities, State Agencies- Most of these groups have lists of consultants and are able to offer suggestions regarding the way to solicit responses.

## 3.5 COST SUMMARIES

Certain costs are eligible and conversely, others are not. To be certain your community does not pay for an ineligible cost, the following is designed to offer examples of generally accepted cost standards.

As a general rule of thumb, all costs incurred by the consultant prior to the signing of a contract are ineligible. Occasionally, the time and direct expense of traveling to negotiation sessions is eligible, if a successful contract is executed.

### GENERALLY ELIGIBLE COSTS-examples

- Negotiating costs (time & travel)
- Bonding costs (if required)
- Compensation for services (wages, salaries, bonuses, fees, administrative costs, pension fund contribution, annuity, approved incentive plans).
- Depreciation (as allowed by IRS)
- Fringe Benefits (Insurance plans, FICA etc.)
- Indemnification (corporate)
- Repair and maintenance
- Production cost
- Materials
- Per diem (rooms, lodging & food)
- Incidents (cost of related meetings, shared expenses)
- Overtime
- General administrative expense (pro rate)
- Communications
- Contract services
- Food (when justified)
- Related professional services
- Rental
- Royalties and patent use
- Selling cost (cost of specific sales promotion, not general advertising)
- Service and warranty costs
- Severance

- ✱Taxes, special assessments
- ✱Termination costs (close-out on professional advice)
- ✱Trade and professional memberships, subscriptions and meetings
- ✱Training and education (non-college credit types)
- ✱Transportation (shipping, freight)
- ✱Special production and tooling
- ✱Planning costs (must be related to contract)

GENERALLY INELIGIBLE COSTS-examples

- ☆Entertainment (only exception is when associated with approved employee welfare programs or professional organization activities)
- ☆Contribution and Donations
- ☆Contingencies (unrelated to project)
- ☆Advertising (allowed only for specific project goals, recruiting, procurement and disposal)
- ☆Bad debts
- ☆Fines and Penalties
- ☆Losses from other projects
- ☆Legal fees (certain types of general reorganization law suits, and claims)
- ☆Pre-Contract Bidding Expenses (general solicitation)
- ☆Mistakes made by consultant

In addition to an awareness of costs that are eligible/ineligible, it is important for community Contract Officers and negotiators to understand the concept of overhead and consulting firm cost calculations.

OVERHEAD is the term used to describe the costs that are incurred but are indirect in nature. They represent the costs that can cannot be easily identified or associated with a specific project. The three major types of overhead costs incurred by consulting firms are:

★general business maintenance and administration (i.e. general accounting staff, administrative time, office rent, utilities, equipment, etc.),

★business development (i.e. recruiting, training, expansion, promotion, etc.), and★proposal response preparation (i.e. actual time and costs).

The key factor is to remember that not all of the productive time of professionals is applied to specific client contracts. Time is spent in professional meetings, contract development, and preparing response and contract documents. Additional costs accounted for overhead in professional billing rates include secretarial time, insurance, library costs, postage, telegrams, communication charges, depreciation, taxes, and sick/annual time.

Because consultants use a variety of methods to determine billing rates, one must understand the theory applied to cost determinations before analyzing any rate structure. To establish a rate one must recognize that there are 260 possible working days in a calendar year, but not all of that time is billable.

For example, in most situations professionals are allowed a two-week (10 days) paid vacation and at least one week (5 days) paid sick leave, which reduces the possible billing time to 249 days. In addition, there are public holidays and general program administrative, development and planning time that must be accounted for. Generally there are three ways to approach the problem.

✻First, one can develop an "efficiency rate". A reasonable projection for efficient billable time would be 75%. Therefore, at 75% efficiency

and 260 working days, there are 195 billable days remaining in the year. But, remember the professional must be paid by the firm for 260 days. Thus the following analysis:

Annual Salary: $25,000
Cash Fringe Benefit 10% of salary
Efficiency rate: 75% of 260 working days
Billable days: 195
Sick leave, Annual leave, Holidays: 34 days
Business/professional development and general administration: 31 days
Overhead and administrative support: 50% of basic salaries

Basic rate of $25,000/260 = $96.15
Billable rate $25,000/195 = $128.21 plus 10% fringe = $141.03
Overhead Cost 0.5% of $96.15 = $48.08
Total billable cost per day: $141.03 + $48.08 = $189.11
Plus 7.5% (fee) = $14.18
Total Billable rate per day = $203.29 or ($25.41 per hour)

Base rate multiplier = 2.11

While the above example may appear quite reasonable, according to rates charged by many firms, the concensus of the consulting business is that 2.11 is far to optimistic. The consultant using a 2.11 multiplier will not stay in business long. Many firms in the Rocky Mountain west use from 2.6 to 3.0 as their base multiplier.

*A second, less complicated method, is to develop a base multiplier and apply it categorically to the staff position. Such as:

| | |
|---|---|
| Project manager | 2.95 |
| Asst. manager | 2.80 |
| Senior Consultant | 3.00 |
| Consultant #1 | 3.00 |
| etc. | |

If a person is being paid a base salary of 96.15 per day and the firm applies a 2.75 multiplier, then the client will be billed $264.41 per day or $33.05 per hour.

If you want to know a consultant's actual salary simply ask what the multiplier is and perform the preceeding calculations in reverse fashion.

The third manner often used by consultants is to establish annual salaries, make the assumption that overhead is at least as high as the salary and then determine a number of billable hours based on an efficiency rate. For example:

Base rate of pay: $25,000
Overhead: $25,000
Base Cost of position: $50,000

260 working days @ 70% efficiency = 182 working days
$50,000 ÷ 182 = $272.73 per day or $34.34 per hour

In summary, understanding rate determination process is not that difficult. Actually making the determination, calculating overhead and analyzing cash needs is another matter. And, that matter becomes even more complex when one recognizes that there are a variety of billing formats: Examples:

Hourly rates (loaded with multipliers)
Per diem rates (budgeted rates plus expenses)
Weekly, monthly or annual fixed rate retainer
Cost plus a fee
Fixed fee no limit

Nearly 70% of all consultant contracts are encompassed by per diem, hourly or cost plus a fee systems, which reflects both the standard of the industry and the methods most preferred by consultants and clients.

## 3.6 NEGOTIATIONS

As in developing the best possible solicitation for professional services, planning is the key to successful negotiations. If the negotiator, who is generally the contract officer (CO) does not fully understand the entire project, including cost constraints, the scope of work, professional and technical skills required, there is little likelihood the purchaser will obtain the best possible arrangement with the consultant. The strength of the negotiator will inevitably rest in his/her personality, the ability to analyze the consultant's proposal and an adequate understanding of the acceptable parameter by which the community chooses to employ.

There are essentially two types of negotiations that occur and of course a variety of levels at which they are undertaken. The commonly dubbed "soviet-style" assumes a "we win/they lose" philosophy; it implies that there is only one winner and nobody cares about what the other party loses. Generally, this style of negotiation is not well liked by most people and as a result is the most often finalized by litigation.

A more common approach is the "win-win" approach whereby terms are reached that are mutually satisfying to all parties concerned. That style implies that neither party is striving for the proverbial upper-hand, but instead the parties take the time to discover each other's needs and make adjustments accordingly.

Negotiations occur at a variety of levels. They may take place in one session or require many meetings, may be accomplished by telephone, a letter or a combination thereof. In any case, there are several activities that should be considered to enhance the process.

## *Suggested Procedures for Negotiation

- *Analyze the consultant's response document (i.e. labor, materials, overhead, proportional expenditures).
- *Consider the consultant's technical judgements and review the philosophical approach. Determine validity of approach.
- *Complete cost analysis (compare to other respondents-are costs necessary, desirable within an acceptable range?)
- *If one is negotiating a major project, try a practice session with in-house personnel associated with the project to test the validity of your position.
- *Determine the method of negotiation (meeting, telephone, letter, contract offer, etc.)
- *Contact consultant and begin with scope of work discussion to be certain everyone is talking in the same terms about the same work product.
- *Begin to tie the scope of work discussion to the consultant's project cost.

* Identify major areas of concern in writing and deal with them one by one to focus on the central issues.
* Prepare a summary of the negotiations to be certain all information is recorded.
* Develop a detailed offer to the consultant or have the consultant develop a "best and final" offer to your organization.
* Place a decision in writing... avoid providing the rationale in writing because what is important to you may seem irrelevant to the consultant.

## * Special Considerations and Notes

- The more time spent negotiating will likely achieve a better contract in the end.
- If your community is concerned about being forced into immediate action, do not send all of the decision makers to the negotiation scene. This allows time to evaluate the consultant's offer.
- Use the most technically knowledgeable people you have available to communicate with the consultant. This will help eliminate confusion...both parties will be speaking the same language.
- Decide what you want well ahead of time. If you must write the parameters, do not vary unless some new issue surfaces to change the situation.
- Do not be swayed by "Flashy Shows" and "Slick" work. Deliverables are the primary concern, not fanfare.

  Don't be afraid to try new approaches or explore reasonable options.
- Be professional (i.e. punctual, precise, expert, clear, and sensitive to the concerns of others). "Good ol' boy" approaches will eventually create problems.
- Write everything down, not only to document the process, but to create a basis for measuring progress.

- Do not bring unrelated issues into the negotiations and do not lose sight of your goals.

## Closing Negotiations

Once a decision has been reached to employ a consultant, all negotiations should be formally terminated. That requires that formal written notice be sent to unsuccessful firms and negotiation transitional activities be placed in motion to develop the final agreement. The successful firm must be notified that they will be awarded the contract.

If unsuccessful respondents desire, they may request information regarding the name of the successful firm, the price offered and an abstract of the program services. (see Section 4.1 Contract Contents)

## Checklist for Negotiations

Have we considered the following?

___ type of contract
___ work statement
___ boiler plate
___ data ownership
___ start/finish date
___ progress payments
___ bonds, insurance
___ scheduling
___ liaisons
___ federal, state, local regulations, permits, etc.
___ products, deliverables
___ subcontracting

✻ Interviewing

Interviewing is a skill that unless practiced often and refined is difficult to perform. To assist with the process, some sample interview questions have been developed and are included in APPENDIX 'F'.

## 3.7 ROLES AND RESPONSIBILITIES

The success of a community/consultant relationship not only depends upon the completion of contract terms, but also the realistic understanding of the roles and responsibilities of each party to the agreement. There are no state laws, per se, that establish specific responsibilities because it is generally the function of the contract document to delineate the tangible. The summary listed below provides an overview of what each party should expect.

### Responsibilities of the Consultant

1. Consulting is, by nature, a personal service. Consultants must therefore observe high standards of conduct, similar to those followed by reputable individuals and organizations in other professional branches. They must carefully avoid all acts or practices which are undignified or unprofessional or which might discredit or injure their profession.
2. Consultants should confer with municipality considering the use of their services in order to determine the nature and scope of the assistance required, and to explore the benefits that may

be attained. This preliminary discussion is usually undertaken without obligation to the prospective municipality.

3. In view of the responsibilities the consultant has towards the prospective municipality, he must state his case solely on the basis of his experience, reputation and ability, and not promise more than he can perform successfully. Furthermore, the consultant should give the municipality every reasonable opportunity of inspecting his record, and should assist him in the interpretation.

Responsibilities of the Municipality

Although there is no formal code outlining the practices of municipalities toward the consultant, the following rules are essential to mutual respect and to a sound professional relationship.

1. The municipality's responsibility is to select consultants on the basis of their merit and in accordance with accepted practice.
2. The municipality should pay adequate and equitable fees to the consultant for his services in accordance with the schedule specified in the contract.
3. The municipality should accept the consultant as a professional advisor and treat him with respect and confidence.
4. The municpality is under an obligation to furnish the consultant with the information and data he requires, and to review and approve the information and recommendations submitted by the consultant.
5. The municipality should respect the consultant's position with regard to third parties such as contractors, material, suppliers,

etc., and not bypass the consultant in his dealings with them.

6. The municipality must accept the consequences if it does not follow the consultant's recommendations.

_____
Date

_____
Case Number

READERS SURVEY
for
"WORKING WITH CONSULTANTS"

Introduction: We, the authors, would appreciate guidance from you, the reader, in improving this document for future editions. After you have had a chance to read this document and/or you have used this document, we would be grateful if you would participate in this survey. May we please have your comments by October 1, 1983?

1. My title is:_____
(e.g. County Commissioner, Mayor, Planning Director, Consulting Engineer, etc.)

2. Have you used this document?

_____Yes

_____No

3. Does this document provide useful information which you can apply in your community?

_____Yes

_____No

4. What specific concepts, sections, or chapters are most helpful?
(Please be as specific as possible and list page numbers.)

| Page No. | Comments |
|---|---|

5. What specific concepts, sections, or chapters need revision? (Please be as specific as possible. List the suggested revisions and page numbers.)

| Page No. | Comments |
|---|---|

6. Are the sample documents in the appendices useful?

_____Yes (If "yes", answer A)

_____No (If "no", answer B)

A. How are the sample documents useful?

B. Why are the sample documents not useful?

7. Are additional sample documents needed?

_____Yes (If "yes", answer A)

_____No

A. What additional types of sample documents should be included?

8. Do you know of any other information on this subject (such as documents, organizations, contact persons)?

_____Yes (If "yes", answer A)

_____No

A. Please list suggested documents, organizations, or contact persons.

9. Additional comments and/or suggestions:

(Optional)

Name_____

Address_____

_____

Phone_____

Political Jurisdiction_____
(if applicable)

Please mail this survey form to:

Jack Vaughn
Community Program Coordinator
Community Assistance Program
Montana Department of Commerce
1424 Ninth Avenue
Helena, MT 59620

# PART FOUR

## *Performance*
(the process)

*

# Part Four

## 4.1 INTRODUCTION

Two classic statements constantly remind communities that the development of written contract documents (that detail all issues) are essential:

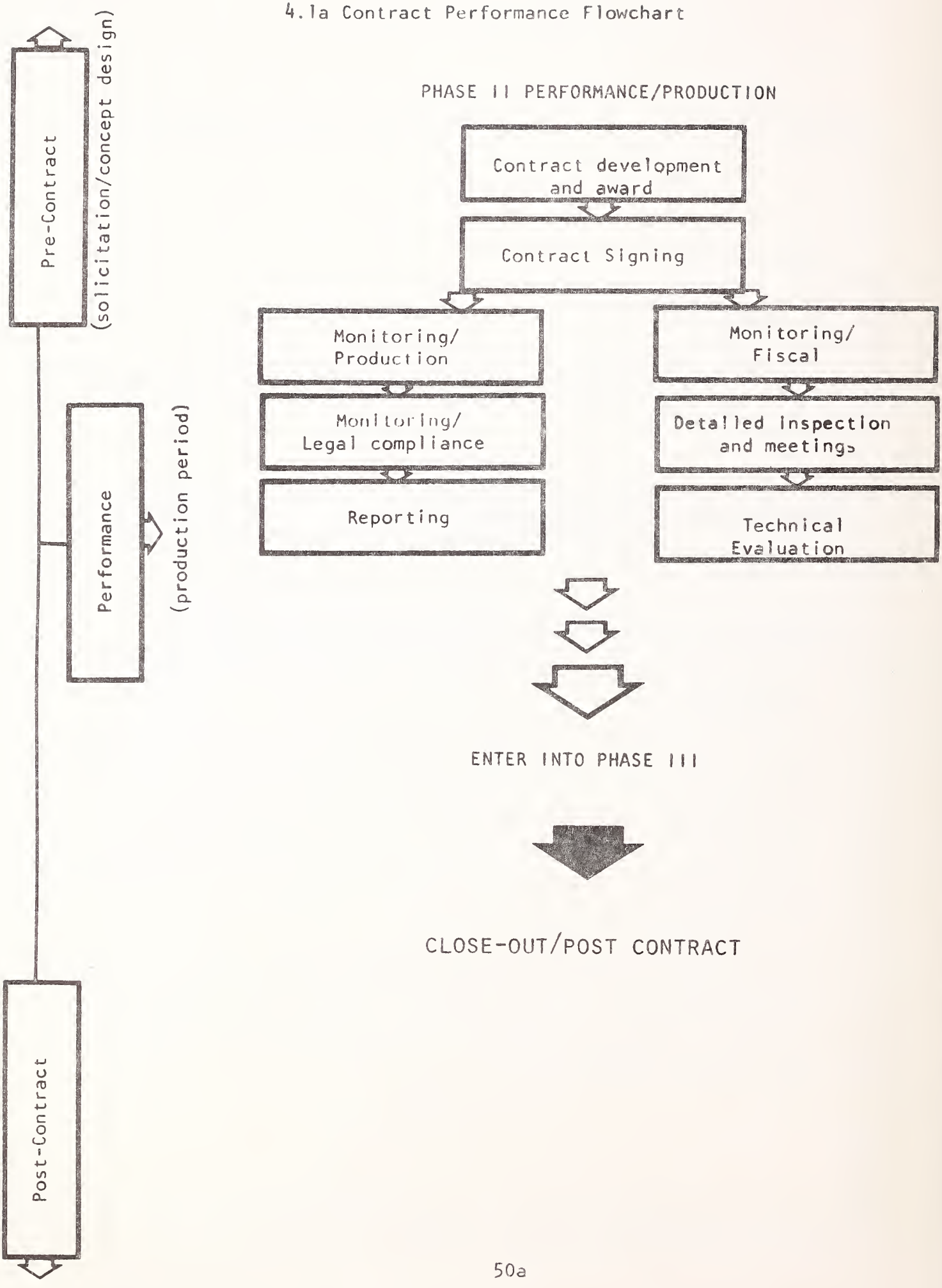
* A VERBAL AGREEMENT IS JUST AS GOOD AS THE PAPER IT IS WRITTEN ON...
  (more than likely expressed by both parties just before going to renegotiate or court)

* YOUR ABILITY TO NEGOTIATE AGREEMENTS IS MAKING ME RICH...
  (a municipal/county attorney who has spent most of his career either prosecuting or defending communities who have entered into bad agreements)

While both statements may seem to offer some humor, the humor exists only in the tragedy that far too often good contracts are not developed. As a matter of policy no one should ever sign an agreement they think they are going to have to litigate. If one believes he/she may end the project in court, the agreement should be unacceptable to both parties. More negotiation is warranted.

To assist with Contract Development and Management process, a comprehensive understanding of requirements, options and areas of concern is in order. The following chart offers a general overview of activities that must be preformed:

4.1a Contract Performance Flowchart



## 4.2 CONTRACT DEVELOPMENT AND CONTENT

The content of a contract between a purchaser and consultant depends upon a variety of issues including but certainly not limited to, (a) the scope of work, (b) the funding source, (c) state, federal and local regulations and laws, (d) the size of the project, (e) the duration of work and (f) the cost of the project.

Attached as APPENDIX 'B', are samples of contract forms, from which sections may be utilized individually to serve as thought stimulants regarding issues one may desire in any agreement. Listed below is a sample "Table of Contents" from a Community Development Block Grant model contract. Those items highlighted with stars should be seriously considered for inclusion in any document.

## EXHIBIT VIII-4
## GENERAL CONDITIONS

1. Contract and Contract Documents

The project to be constructed pursuant to this contract will be financed with assistance from the Montana CDBG Program and is subject to all applicable Federal and State laws and regulations.

The Plans, Specifications and Addenda, hereinafter enumerated in Paragraph 1 of the Supplemental General Conditions shall form part of this Contract and the provisions thereof shall be as binding upon the parties hereto as if they were herein fully set forth.

★1. Contract and Contract Documents
★2. Definitions
3. Additional Instructions and Drawings
4. Shop or Setting Drawings
5. Materials, Services, Facilities
★6. Contractor's Title to Materials
7. Inspection/Testing of Materials
8. "Or Equal" Clause
★9. Patents
★10. Surveys, Permits and Regulations
★11. Contractor;s Obligations
12. Weather Conditions
13. Protection of Work and Property-Emergency
14. Inspection
★15. Reports, Records and Data
★16. Superintendence by Contractor
★17. Changes in Work
★18. Extras
★19. Time for Completion and Liqudated Damages
★20. Correction of Work
21. Subsurface Conditions-Different
★22. Claims for Extra Cost
★23. Owner Termination of Contract
24. Construction Schedule/Periodic Estimates
★25. Payments to Contractor
★26. Final Payment as Release
★27. Payments by Contractor
28. Insurance
★29. Contract Secutiry
30. Additional or Substitute Bond
31. Assignments
32. Mutual Responsibility or Contractors
33. Seperate Contractors
★34. Subcontracting
35. Architect/Engineer's Authority
★36. Stated Allowances
37. Removal of Debris
★38. Detail Estimates
40. General Guaranty
★41. Conflicting Conditions
42. Notice and Service Thereof
43. Provisions Deemed Inserted
44. Life/Health Protection
★45. Subcontracts
46. Interest/Congressmen
47. Other Prohibited Interests
48. Use Prior to Acceptance
49. Photographs
50. Supension of Work
51. Minumum Wages
52. Underpayments of Wages
53. Fringe Benefits
54. Overtime Compensation
★55. Apprentices
56. Employment Prohibited
★57. Anti-Kickback Act
58. Classifications Not Listed
59. Benefits Not Expressed
60. Posting of Wage Rates
★61. Complaints or Testimony
★62. Claims and Disputes
★63. Questions Re: Regulations
64. Payrolls and Records
65. Specific Coverage
66. Ineligible Subcontractors
67. Provisions to be Included
68. Breach of Labor Standards
69. Employment Practices
★70. Contract Termination; Debarment

To summarize areas of priority concern when utilizing contract services, review the following: (note: there are numerous formats, review APPENDIX.)

Contract Checklist

Item 1. PREAMBLE- Describe why one is entering into the agreement and who the agreement involves, the authority citation for said action and definitions.

Item 2. GENERAL

____ Date of Agreement
____ Project Definition
____ Scope of project
____ Date work begins and time of completion
____ Designation of liaisons for community and consultant
____ Changes/modification
____ Termination by either party, change, delay extension procedures
____ Conflict of interest
____ Compliance with laws
____ Ownership of products
____ Liabilities, assurances
____ Insurances
____ Venue proceeding
____ Assignability
____ Access to records
____ Verbal agreement exclusions
____ Penalties

Item 3. CONSULTANT (responsibilities)

____ Specific personnel designated to work on project (ancillary staff may be attached)

____ Detailed Scope of Services (may be attached to agreement)

____ Work schedule

____ Meeting schedules

____ Reporting procedures

____ Security of information

____ Liability

____ Disposition of information

____ Performance standard

Item 4. CLIENT (community responsibilities)

____ Scope of local services, facilities and data available

____ Conference times

____ Amount of related equipment and staff support

____ Payment processing times

Item 5. FINANCIAL SECTION

____ Total financial commitment

____ Schedule of billing and method of submission by consultant

____ Method and schedule of payment by community

____ Guarantee and/or level of payment commitment

____ Statement of budget (i.e. intended and eligible cost)

✱ Notes and Reminders

Each year a large number of contracts are approved by public bodies without a legal review by an attorney representing the purchaser. It is extremely remiss to apply all the principles of pre-contract selection and solicitation and then not enter the summary of work into a formal agreement in a fashion that best protects all parties.

On another note, remember some contract reimbursement types provide either greater or less risk to the client and of course some types are more suitable to certain conditions than others.

All cost plus type contracts (i.e. cost plus a fee, cost plus incentive time and materials, cost sharing, etc.) offer the highest risk to the clients. But, in certain situations the risk is reasonable. For example, if the consultant absorbs a portion of the cost for other benefits, or if the contractor is a non-profit or when one knows exactly what it will cost to perform services, the cost plus agreement may be reasonable.

The firm fixed fee and the "hybrids" thereof generally offer less risk to the client and higher risk to the consultant. Many fixed agreements can place moderate risk with both client and the contractor if an escalation clause, price incentives or price re-determinations are allowed. There is some merit in sharing risk to ensure the consultant doesn't cut the work short and to promote the "win-win" concept of business.

In the final analysis many factors will enter into the decision of which method is best for all concerned. The type and complexity of the services contracted for, the degree of competition, the time of performance, the urgency, the administrative capability of both parties, the ability to perform, the relationship of risk and profit, the number of subcontracts and the amount of information available regarding the subject will influence the contract format.

Options (specialized)

There are two types of agreements, they may simply be called "SPECIALIZED" because they are uniquely applied.

☆ First, there is the RETAINER approach where the client purchases up to a level of service but pays whether or not the service is used. Anything above the level of service defined by the agreement is usually invoiced at a pre-determined fee. This type of agreement relies on the need to secure certain skills more than a specific set of goals.

☆ Second, for small contracts, there exists the BASIC ORDERING AGREEMENT (BOA) which essentially is a "standing offer " or "immediate call" contract that is utilized to secure services immediately needed. BOA's are negotiated, usually sole-sourced and offer excellant cost efficiency in certain situations. Medical and Social Service Welfare contracts are often BOA's with other agencies. They can be paid on a fixed fee, cost reimbursable and combination thereof.

✱ Special Note

Percentage contracts are generally illegal when federal funds are used.

## 4.3 CONTRACT MONITORING

Whether it be a store, a ranch, a farm, or a local government, one cannot expect to ignore the operation and expect it to perform, no matter how much work was spent on the front-end. The same principle applies to professional services. While it is usually true that the purchaser's role is reduced in terms of time spent on the problem once the consultant is employed, to ignore the activities of the consultant may well mean the demise of the entire project, not to mention an extreme waste of time and money, the creation of bad feeling and if nothing else a frustrating emotional experience.

It is therefore mandatory that the purchaser stay in close contact with the consultant. In fact, experienced consultants maintain that contact even if the purchaser is lax.

There are six areas that must be monitored by the purchaser to ensure that the work is progressing on-schedule.

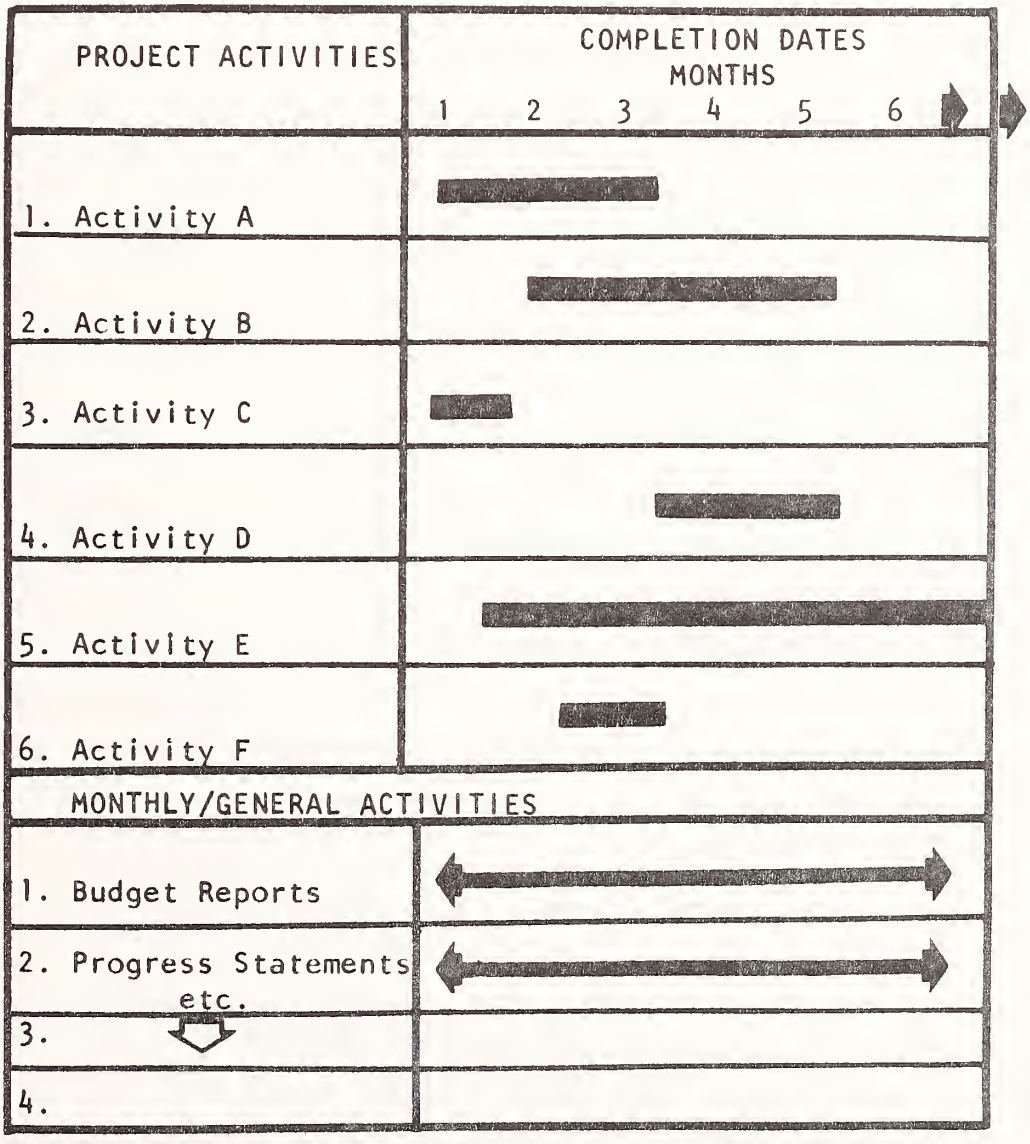
- ★Work progress
- ★Financial
- ★Technical
- ★Contract Compliance
- ★On-site work inspection
- ★Reports

The process of monitoring is not difficult if the contract document and work statement are sufficiently detailed, but no one can monitor tasks that are not delineated. Hence, the first rule of evaluation: One can monitor only those tasks which are identified in writing. If tasks aren't written, one can only receive reports regarding consultant activities, but there will be no basis for monitoring.

It is wise, when negotiating agreements to tie activities to time frames and budget in the form of a contract and work schedule. Thus, when monitoring begins, all that is needed is to compare what was stated to what is actually happening. If there appears to be failure to complete a task, a time problem or a budget over run, detection will occur rapidly. And, the problem can usually be resolved.

The process of monitoring the consultant will accomplish more than simply maintaining contract compliance. It will generate new information which will require decisions, setting new goals, planning and taking new actions.

Sample MONITORING SCHEDULE:



Monitoring Questions

- Budget
  - Is the budget and time commitment on schedule?
  - Are there any time delays anticipated?
  - Have there been project changes and have the related budget items been changed to reflect greater or less activity?
  - Are all local fiscal records current and in order?

  (Note: On the long-term projects an interim technical assistance fiscal evaluation may be in order).
- Inspections monitoring
  - Have inspections of the consultant's work been performed? How often and by whom?
  - Is there evidence that the work in progress is on-schedule?
  - Are you seeing results?
  - Is the liaison-coordinating process working?
- Compliance
  - Punchlist the contract to make certain everything is in order.
  - Have licenses, Letters of Clearance, permits, etc., been completed and put on-file?
  - What action is in progress to correct deficient areas?
- Reports
  - Are reports sufficiently detailed to tell you not only what has been done, but the status of the project?
  - Is the consultant following your specified reporting format?
  - Are reports on time?
  - Are the reports usable?

- Technical
  - Does the work in progress meet professional standards?
  - Is the work high quality and targeted to the problem?
- Process Monitoring
  - Is the consultant following the process you are paying for?
  - At what point in the process is he/she?
  - Are you comfortable with the effectiveness of the project?

## 4.4 CONTRACT COORDINATION AND INTEGRATION

One of the essential elements of any successful contract management system is the plan that designates the liaison, contract officer and project coordinator to act as the local government's representative to the consultant. The position may be filled by an individual or small committee. Aside from the more obvious tasks of providing the consultant guidance, integrating the consultant's work into a total plan for development and serving as a clearinghouse for progress approval, the coordination function is important to ensure the consultant is receiving a single sense of direction. The goals, objectives and general role of the consultant must be clear to the consultant.

Regardless of what is placed into a contract in terms of work scope, if the consultant is being given several different signals regarding community expectations, he/she may not be able to adequately address the central issues of the contract.

A second element that is important to address is the integration process. Most consultants view their function in terms of the specific services they provide. Rarely does the consultant have the opportunity to view the entire scope of the community's goal(s). For example, rarely is the consulting engineer (who may be designing a water system) aware of the housing rehabilitation project operated by another office within the city. The rehab. consultant may not be aware of the airport project and so on.

In the final analysis it is the responsibility of the purchaser to decide how and when implementation of the consultant's work will occur.

In short, coordination and integration responsibilities imply that one cannot employ a consultant and make the assumption that all is well and no additional work will be required. Hiring a consultant only shifts the work load, it does not reduce work functions.

## 4.5 INVOICE AND REPORTS

When a program review or audit is performed, the first documentation sought is the invoice and corresponding report. Contrary to what many people believe, consulting must verify that work was performed in accordance with the terms of the contract. Therefore, to re-emphasize the importance of the contract format, one must realize invoices will be provided accordingly. If, for example, a purchaser states they will pay X dollars when product A is delivered (fixed fee contract), the

consultant will not provide an analysis of hours in his/her invoice. If another purchaser develops a cost reimbursement contract, the consultant must document time, expen. and activities. In certain cases when federal money is used, even in a "fixed-fee" contract, a federal auditor or program representative can hold payment until proof of reasonable hours is demonstrated. The rule is established to prevent the consultant from double-charging clients or massively overcharging.

Fixed fee contract payments and the various versions thereof, should be tied directly to the acceptance of deliverable products, while cost reimbursement contracts should require an adequate description of the time worked, the dates and the services performed, before payments are made. All invoices should be signed by the consultant and/or authorized representative before payment is made.

Reports will vary a great deal from project to project, but there are a few guiding rules of thumb.

- Reports should be written
- Reports should be signed by the author
- Reports should be dated, and explain the period covered
- Reports must be delivered on-time in accordance with the contract terms

## 4.6 DISPUTES/CHANGES

Dealing with changes is a normal part of contract administration.

Changes in contracts can be divided into several areas and caused by various conditions. They can be initiated by the consultant or by the purchaser and must be agreed to by all parties. If they are not agreed to by all parties, changes become disputes. The following is a short list of reasons to consider changes in a contract:

- ★The needs of the purchaser changed
- ★There were unanticipated delays
  (a) beyond the contractors control or (b) caused by the contractor
- ★Errors in information that caused delays
- ★Increases in material costs, labor costs, taxes, freight, etc.
- ★Funding amounts changed-either adding to or deleting tasks

The actual procedure for "changes" should be stated in the contract document to clearly delineate the process and eliminate possible confusion.

Don't be afraid to change an agreement. It is in fact often prudent to do so. Many aspects of a project are difficult to assess at the time the original contract is signed. Also, circumstances that influence performance change.

If the change becomes a dispute, the most common practice is to exhaust all administrative options before elevating the issue to the courts. Administrative remedies implies that one will attempt to solve a problem at the lowest level of administration before seeking out the highest ranking official.

The process often involves the use of third-party negotiators, disassociated and impartial review panels and administrative hearings before litigation occurs. Disputes are usually expensive for both parties and are usually counter-productive. They should be avoided whenever possible.

## 4.7 SUBCONTRACTING

Subcontracting is simply the process whereby a prime contractor arranges with another contractor (the subcontractor) to complete a portion of the work contained in the contract agreement. In some cases subcontracting is prohibited, in other cases it is unnecessary and at the very least when it is required, the purchaser should retain the right to approve or disapprove the subcontractor. Some contracts financially limit the amount of work that may be subcontracted because it can be excessively expensive.

Often subcontracting offers advantages because it allows the prime contractor to acquire a specific skill that isn't available in-house or to better organize time. Be aware how much work is being subcontracted.

# PART FIVE

## *Post-Contract*
(the process)

*

# Part Five

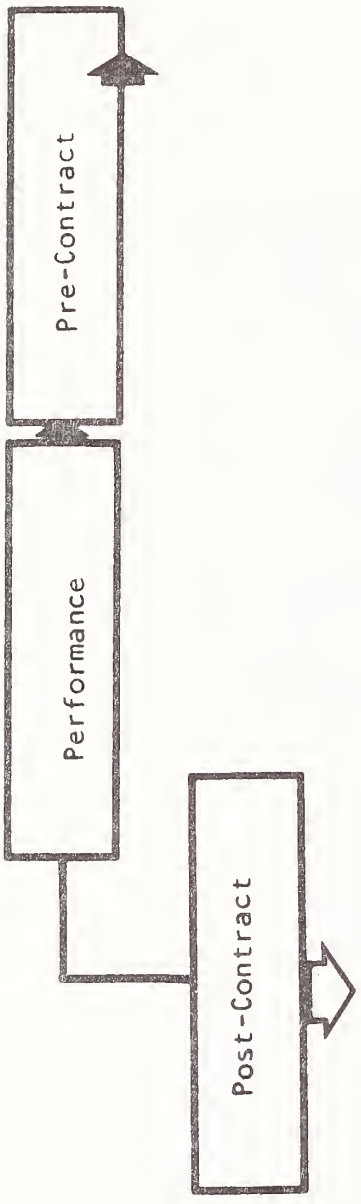
## 5.1 OVERVIEW

Even after all consultant activities have been performed, the contracting agent has several CLOSE-OUT tasks that must be performed to terminate the project. Generally, post-contract activities can be categorized as follows:

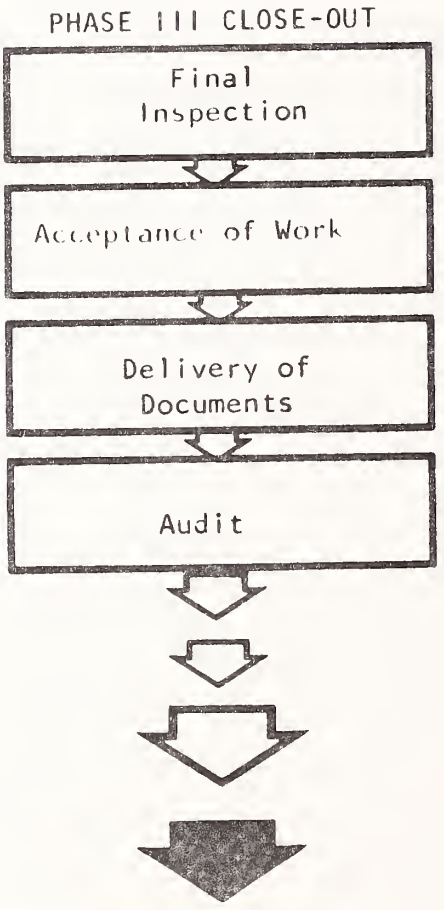
1. Final Inspection
2. Acceptance of Work
3. Delivery of Documents
4. Audit.

In addition to those activities, which are reasonably self-explanatory, the purchaser should make a conscious IMPLEMENTATION decision. There would appear to be little reason to employ a consultant and then not listen to the consultant's findings; however, it is not unussual for an issue to be a high priority for a short period of time, only to find that by the time the consultant's work is complete, priorities have changed and there is little desire on the part of decision makers to engage an IMPLEMENTATION process.

To graphically depict the process, review the following chart:




5.1a Post-Contract Flowchart




IMPLEMENTATION

## 5.2 AUDIT

One of the most important areas in a close-out is the audit. There are several types of audits commonly applied to the local governments and contracts.

★ Financial and compliance audits

Primarily intended to determine the extent to which the basic financial statement presents a representative financial position.

★ Economy and efficiency audits

Primarily performance audits intended to access resource management, economy and efficiency. The audit will highlight possible inadequacies in systems and structures and suggest improvements.

★ Program results audits

Primarily intended to determine the extent to which project results or benefits have been achieved...a comparison of actual results of operation with previously stated goals and objectives.

It is important to note that any one or all three audit formats may be applied to financial situations. It is equally important to note that many local projects are not audited except as part of an overall audit of the local government. Also, the audit may occur a considerable time after all work has been accepted. In those cases, it is highly recommended that final financial statements be reviewed by the contracting officer and local accounting authority to ensure that monies have been properly spent.

# PART SIX

## *Conclusion*

*

# Part Six

## 6.1 CONTRACT MANAGEMENT

At one time or another, nearly everyone has heard the expression "Projects are only as good as those that manage them-no better, no worse". No one philisophy could more accurately describe consultant/ coummunity management. Remember, most of the time a consultant's work solves an integral part of a community's overall need. A recent survey of both local government and consultants confirmed a few problem areas. By being aware of major problems they often can be avoided.

### Overview

1. Persons responsible for implementation, coordination and monitoring:
   - ☆ fail to act
   - ☆ do not evaluate
   - ☆ are not qualified
   - ☆ lack in communication
   - ☆ skills were misused
2. Sometimes problems are encountered in the initial design which contribute to the lack of success. Examples or problem areas are:
   - ☆ Procedures have:
     - ☆ no contract controls
     - ☆ goals that are unclear and unrealistic
     - ☆ no evaluation process
     - ☆ inaccurate observation of needs

☆ The Problem being addressed:

- ☆ is overrated
- ☆ impossible to solve within acceptable parameters
- ☆ has work scope too nebulous in nature
- ☆ is not large enough to warrant level of effort committed

3. Finally, problems always seem to appear in the Financial area.

☆ Budget has:

- ☆ not enough money
- ☆ no accountability
- ☆ low cost/benefit ratio
- ☆ inappropriate expenditure of time and money

The following checklist will help prevent contracts from meeting with failure. A quick run-through before the issuance of an RFP, ideally at the conceptual stage, can prevent many common errors.

CONTRACT MANAGEMENT CHECKLIST:

| Yes | No | | |
|---|---|---|---|
| ____ | _____ | 1. | Are we trying too much too fast? |
| ____ | _____ | 2. | Is our plan or what we are likely to receive going to be too sophisticated for us to operate? |
| ____ | _____ | 3. | Have we clearly broken the overall effort into parts that are easy to understand by everyone involved? |
| ____ | _____ | 4. | Is the project organized in a fashion so failure of one small part won't stop the entire project? |
| ____ | _____ | 5. | Have we involved everyone that needs to be involved? |
| ____ | _____ | 6. | Do our plans fit our organization goals? |
| ____ | _____ | 7. | Does our plan take people into account? |
| ____ | _____ | 8. | Are we expecting too much too soon for too little cost? |
| ____ | _____ | 9. | Is it likely the project will get bogged down in unnecessary details? |
| ____ | _____ | 10. | Can we change it if it doesn't work? |
| ____ | _____ | 11. | Have any promises been made that aren't in writing? |
| ____ | _____ | 12. | Are we aware of the full scope of the project? (turn-key vs. technical assistance) |
| ____ | _____ | 13. | Have we set up a good feed-back system? |
| ____ | _____ | 14. | Are we willing to listen to the consultants once they make recommendations? |
| ____ | _____ | 15. | Is everyone's role defined? |
| ____ | _____ | 16. | Is the plan tied to defined actions? |
| ____ | _____ | 17. | Do we have adequate resources available (people,money) |

If you find yourself checking "no" to any of these questions, it would be wise to re-examine that area of the operation.

## 6.2 MAKING IMPROVEMENTS

So what can be done to make working with consultants easier? Alot. The following are a few areas that one should note. In fact, these hints should be helpful for other organizational tasks as well.

- ★Work with priorities
  (define your needs and priorities)
- ★Consolidate task for bid efficiency where possible
- ★Do the difficult first
- ★Make decisions as soon as possible
  (if you have a problem with a consultant, deal with it immediately)
- ★Develop monitor and control systems, and then use them
- ★Involve all persons essential to project completion
- ★Understand your purpose and maintain a clear sense of direction
- ★Learn how the consultants you are working with think, learn their terms, the way they analyze tasks and prepare cost proposals.

## 6.3 WHAT WORKS

Even though there is scarcely a community that hasn't experienced problems with consultants and vice versa, it is equally important to recognize that there are no known governmental groups with a ban on the use of a consultant. In fact, during a recent survey, it was commonly noted with pride by communities that they worked with consulting firms who performed those extra services to be certain the community's interest was represented. For every area where

there seem to be problems, there are ten communities where countless dollars were saved, services improved and local goals obtained through the use of consultants.

There is little doubt that dealing with consulting firms is a complex situation, a field of work unto itself and sometimes as frustrating as rewarding; however, there is also little doubt that with a little informational background, such as this manual, a review of other available materials and a healthy dose of common sense, that it is relatively easy to achieve high quality performance.

There are consultants with skills in virtually every field of endeavor, but unless the consultant and the community work closely together there is little likelihood that the highest possible performance can be attained.

# *APPENDICES*

*

APPENDIX 'A'

REQUEST FOR CONCEPT PAPERS

(Sample Format)

1. Description of Problem:

The Town of _____ has a serious need to resolve a housing shortage problem caused by the influx of persons related to energy development. In order to develop long-term solutions, several community service organizations have contributed $_____ toward the review of "options in housing" that will best benefit our town. Because our community does not have a clear sense of alternatives available and potential costs, we are accepting CONCEPT PAPERS from interested consulting firms regarding how your firm would approach the problem within the proposed budget.

2. Basic Data:

| | |
|---|---|
| Community Population: | 1983 - 4,352 |
| Anticipated growth: | 1985 - 4,900 |
| | 1986 - 5,600 |
| | 1987 - 6,020 |
| Current Vacancy Rate: | Owner for sale - 5.5% of all stock |
| | Rental - .5% |
| Time: | begin immediately |
| | prefer recommendation within three months |
| Local Contact: | _____ |
| | (name and title) |
| | _____ |
| | (address) |
| | _____ |
| | (telephone number) |

Appendix 'A' continued:

3. Response Data:

Please send:

A. Concept Paper

B. Qualifications

C. Additional Comments

SEND FIVE COPIES

4. Evaluation:

Please note all concept papers will be treated with professional respect and not shared with other parties. Our decision to begin negotiations with a firm shall be made based on:

*Quality of the Proposal
*Likelihood of success
*Suitability to our community
*Expertise offer
*Potential for a long-range solution

APPENDIX B

COMMUNITY DEVELOPMENT BLOCK GRANT CONTRACT

CONTRACT # MTCDBG-082-P02

This contract is entered into by the County of _____, Montana, herein referred to as "the Grantee" and the State of Montana Department of Commerce, Helena, Montana, herein referred to as "the Department."

WITNESS THAT the Grantee and the Department mutually agree as follows:

1. PURPOSE. The purpose of this Contract is to provide for funding for project activities approved by the Department under the Montana Community Development Block Grant Program for FY 1982.

2. EFFECTIVE DATE AND TIME OF PERFORMANCE. This contract takes effect on April 11, 1983. The activities to be performed by the Grantee will be completed no later than December 1, 1983.

A copy of the project schedule is included as Attachment A of this contract, and by this reference is made a part hereof.

3. SCOPE OF ACTIVITIES AND LEVEL OF FUNDING. The Grantee will engage in activities for the project entitled "____Sewer Project." The major components of the project include the construction of a wastewater

collection and treatment facility for the unincorporated town of _____.

The total amount of this contract is not to exceed $161,938. The amount of this contract is based upon a signed assistance agreement between the Grantee and the U.S. Environmental Protection Agency. A copy of the project budget is included as Attachment B to this Contract, and by this reference is made a part hereof.

The Grantee is authorized to make adjustments between line items in Attachment B, in a total amount not to exceed five percent of the total contract amount, without prior written approval from the Department as long as the transfers do not violate the conditions upon which the grant was awarded. All transfers will be limited to line items contained within the administration and construction categories. Transfers between the administration and construction categories are subject to departmental approval.

4. COMPENSATION AND METHOD OF PAYMENT. The Department will authorize the Grantee to draw up to $161,938 against a Letter of Credit established with the U.S. Treasury Disbursing Office. In drawing against this Letter of Credit the Grantee will follow the Letter of Credit procedures in HUD Handbook 1900.23 Rev and supplemental instructions supplied by the Department. If the Department determines that the Grantee has failed to satisfactorily carry out its responsibilities under this Contract, the Department may revoke the Grantee's authority

to draw against the Letter of Credit described herein until such time as the Department and the Grantee agree on a plan to remedy the deficiency.

5. LIAISON. _____, CDBG Project Evaluator, is the Department's liaison with the Grantee.

6. ACCESS TO RECORDS. The Grantee will maintain reasonable records of its performance and will allow access to these records at any time during normal business hours by the Department, the U.S. Department of Housing and Urban Development, the Controller General and, when required by law, the Montana Legislative Auditor and Legislative Fiscal Analyst. These records will be kept in the Grantee's offices in _____, Montana.

7. PERFORMANCE REPORTING. The Grantee will submit status reports on project performance at the request of, and in the format prescribed by, the Department.

8. AVOIDANCE OF CONFLICT OF INTEREST. No employee of the Department and no officer, member, employee or public official of the governing body of the localities in which the grant project is situated or being carried out who exercises any functions or responsibilities in the review or approval of the undertaking or carrying out of this project, shall participate in any decision relating to this Contract which affects his or her personal interest or the interest of any corporation, partnership, or association in which he or she is, directly or

indirectly, interested, or have any personal or pecuniary interest, direct or indirect, in this Contract or the proceeds thereof.

9. ASSURANCES. The Grantee will comply with the Statement of Assurances, as signed and submitted with the _____ County CDBG application dated August 30, 1982. The Grantee will also comply with all other applicable federal and state statutory and regulatory requirements, administrative directives issued by the Department, and local ordinances and resolutions.

10. ARTICLES INCORPORATED BY REFERENCE. The Grantee's application for CDBG grant assistance, the HUD regulations at 24 CFR Part 570, as now in effect or as they may be amended during the term of this Contract, and Title I of the Housing and Community Development Act of 1974, as amended, are incorporated in this Contract by reference and are binding upon the Grantee.

11. MODIFICATION AND ASSIGNABILITY OF CONTRACT. This Contract contains the entire agreement between the parties, and no statements, promises, or inducements made by either party, or agents of either party, which are not contained in or authorized by this written Contract, are valid or binding. This agreement may not be enlarged, modified, or altered except upon written agreement. The Grantee accepts responsibility for adherence to the terms of this Contract by subrecipient entities or designated public agencies to which it delegates authority to carry out

portions of this Contract.

12. SPECIAL CONDITIONS. The Grantee will not obligate or utilize funds for any activities provided for by this Contract until:

a) The U.S. Department of Housing and Urban Development has allocated FY 1982 funds for disbursement under the CDBG program.

b) The Grantee completes an Environmental Review Record and the Department issues a Notice of Release of Funds.

The Department may issue a letter to the Grantee providing for the incurring of specific administrative costs prior to the removal of the above conditions.

13. CONSTRUCTION AND VENUE. This Contract will be construed under and governed by the laws of the State of Montana. In the event of litigation concerning it, venue is in the District Court of the First Judicial District in and for the County of Lewis and Clark, State of Montana.

14. TERMINATION OF CONTRACT. This Contract may be terminated as follows:

a) Termination Due to Loss of Funding

This Contract shall terminate in full or in part, at the discretion of the Department, in the event that Department suffers a loss of funding or termination of the federal grant which permits it to fund in full or in part the Grantee so that it is unable to make payment to the Grantee. In this event, the Department shall give the Grantee written notice which shall set forth the effective date of full or partial termination, or if a change in funding is required, setting forth the change in funding and changes in approved budget.

b) Termination by Cause

If the Department determines that the Grantee has failed to comply with the special conditions and/or the general terms and conditions of the grant, the Department may terminate the grant in whole, or in part, at any time before the date of completion. The Department shall promptly notify the Grantee in writing of the determination to terminate, the reasons for the termination, and the effective date of the termination. Payments made to the Grantee or recoveries by the Department shall be in accord with the legal rights and liabilities of the parties.

IN WITNESS THEREOF, the parties hereto have caused this contract to be executed.

_____ County

_____
Chairman,
_____ County
County Commissioners

Date_____

Department of Commerce

_____
_____, Director

Date_____

_____
_____, Administrator
Economic and Community
Development Division

Date_____

_____
DOC Fiscal Review

_____
DOC Legal Review

APPENDIX 'B'

SAMPLE

CONTRACT FOR PROFESSIONAL SERVICES

PART II - TERMS AND CONDITIONS

*(For contracts of $10,000 or more)*

1. Termination of Contract for Cause. If, through any cause, the Consultant shall fail to fulfill in timely and proper manner his obligations under this Contract, or if the Consultant shall violate any of the covenants, agreements, or stipulations of this Contract, the City shall thereupon have the right to terminate this Contract by giving written notice to the Consultant of such termination and specifying the effective date thereof, at least five days before the effective date of such termination. In such event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs and reports prepared by the Consultant under this Contract shall, at the option of the City, become its property and the Consultant shall be entitled to receive just and equitable compensation for any work satisfactorily completed hereunder.

Notwithstanding the above, the Consultant shall not be relieved of liability to the City for damages sustained by the City by virtue of any breach of the Contract by the Consultant, and the City may withhold any payments to the Consultant for the purpose of set-off until such time as the exact amount of damages due the City from the Consultant is determined.

2. Termination for Convenience of the City. The City may terminate this Contract at any time by giving at least ten (10) days notice in writing to the Consultant. If the Contract is terminated by the City as provided herein, the Consultant will be paid for the time provided and expenses incurred up to the termination date. If this Contract is terminated due to the fault of the Consultant, Paragraph 1 hereof relative to termination shall apply.

3. Changes. The City may, from time to time, request changes in the scope of the services of the Consultant to be performed hereunder. Such changes, including any increase or decrease in the amount of the Consultant's compensation, which are mutually agreed upon by and between the City and the Consultant, shall be incorporated in written amendments to this Contract.

4. Personnel.

a. The Consultant represents that he has, or will secure at his own expense, all personnel required in performing the services under this Contract. Such personnel shall not be employees of or have any contractual relationship with the City.

b. All of the services required hereunder will be performed by the Consultant or under his supervision and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under State and Local law to perform such services.

c. None of the work or services covered by this Contract shall be subcontracted without the prior written approval of the City. Any work or services subcontracted hereunder shall be specified by written contract or agreement and shall be subject to each provision of this Contract.

5. Assignability. The Consultant shall not assign any interest on this Contract, and shall not transfer any interest in the same (whether by assignment or novation), without the prior written consent of the City thereto: Provided, however, that claims for money by the Consultant from the City under this Contract may be assigned to a bank, trust company, or other financial institution without such approval. Written notice of any such assignment or transfer shall be furnished promptly to the City.

6. Reports and Information. The Consultant, at such times and in such forms as the City may require, shall furnish the City such periodic reports as it may request pertaining to the work or services undertaken pursuant to this Contract, the costs and obligations incurred or to be incurred in connection therewith, and any other matters covered by this Contract.

7. Records and Audits. The Consultant shall maintain accounts and records, including personnel, property and financial records, adequate to identify and account for all costs pertaining to the Contract and such other records as may be deemed necessary

by the City to assure proper accounting for all project funds, both Federal and non-Federal shares. These records will be made available for audit purposes to the City or any authorized representative, and will be retained for three years after the expiration of this Contract unless permission to destroy them is granted by the City.

8. Findings Confidential. All of the reports, information, data, etc., prepared or assembled by the Consultant under this Contract are confidential and the Consultant agrees that they shall not be made available to any individual or ogranization without the prior written approval of the City.

9. Copyright. No report, maps, or other documents produced in whole or in part under this Contract shall be the subject of an application for copyright by or on behalf of the Consultant.

10. Compliance with Local Laws. The Consultant shall comply with all applicable laws, ordinances and codes of the State and local governments, and the Consultant shall save the City harmless with respect to any damages arising from any tort done in performing any of the work embraced by this Contract.

11. Equal Employment Opportunity. During the performance of this Contract, the Consultant agrees as follows:

a. The Consultant will not discriminate against any employee or applicant for employment because of race, creed, sex, color or national origin. The Consultant will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, sex, color or national origin. Such action shall include, but not be limited to, the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Consultant agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the City setting forth the provisions of this non-discrimination clause.

b. The Consultant will, in all solicitation or advertisements for employees placed by or on behalf of the Consultant, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, sex, or national origin.

c. The Consultant will cause the foregoing provisions to be inserted in all subcontracts for any work covered by this Contract so that such provisions will be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

d. The Consultant will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations and relevant orders of the Secretary of Labor.

e. The Consultant will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the City's Department of Housing and Community Development and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

f. In the event of the Consultant's noncompliance with the non-compliance clauses of this Agreement or with any of such rules, regulations or orders, this Agreement may be canceled, terminated, or suspended in whole or in part and the Consultant may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

g. The Consultant will include the provisions of paragraphs (a) through (g) in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding

upon each subcontractor or vendor. The Consultant will take such action with respect to any subcontract or purchase order as the City's Department of Housing and Community Development may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event the Consultant becomes involved in, or is threatened with, ligitation with a subcontractor or vendor as a result of such direction by the City's Department of Housing and Community Development, the Consultant may request the United States to enter into such litigation to protect the interests of the United States.

12. Civil Rights Act of 1964. Under Title VI of the Civil Rights Act of 1964, no person shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

13. Section 109 of the Housing and Community Development Act of 1974.

(a) No person in the United States shall on the ground of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title.

14. "Section 3" Compliance in the Provision of Training, Employment and Business Opportunities

a. The work to be performed under this contract is on a project assisted under a program providing direct Federal financial assistance from the Department of Housing and Urban Development and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. Section 3 requires that to the greatest extent feasible opportunities for training and employment be given lower income residents of the project area and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in the area of the project.

b. The parties to this contract will comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of this contract. The parties to this contract certify and agree that they are under no contractual or other disability which would prevent them from complying with these requirements.

c. The contractor will send to each labor organization or representative of workers with which he has a collective bargaining agreement or other contract or understanding, if any, a notice advising the said labor organization or workers' representative of his commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

d. The contractor will include this Section 3 clause in every subcontract for work in connection with the project and will, at the direction of the applicant for or recipient of Federal financial assistance, take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the Secretary of Housing and Urban Development, 24 CFR Part 135. The contractor will not subcontract with any subcontractor where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR Part 135 and will not let any subcontract unless the subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

e. Compliance with the provisons of Section 3, the regulations set forth in 24 CFR Part 135, and all applicable rules and orders of the Department issued hereunder prior to the execution of the contract, shall be a condition of the federal financial assistance provided to the project, binding upon the applicant or recipient for such assistance, its successors and assigns. Failure to fulfill these requirements shall subject the applicant or recipient, its contractors and subcontractors, it successors and assigns to those sanctions specified by the grant or loan agreement or contract through which federal assistance is provied, and to such sanctions as are specified by 24 CFR Part 135.

15. Interest of Members of a City. No member of the governing body of the City and no other officer, employee, or agent of the City who exercises any functions or responsibilities in connection with the planning and carrying out of the program, shall have any personal financial interest, direct or indirect, in this Contract; and the Consultant shall take appropriate steps to assure compliance.

16. Interest of Other Local Public Officials. No member of the governing body of the locality and no other public official of such locality, who exercises any functions or responsibilities in connection with the planning and carrying out of the program, shall have any personal financial interest, direct or indirect, in this Contract; and the Consultant shall take appropriate steps to assure compliance.

17. Interest of Consultant and Employees. The Consultant covenants that he presently has no interest and shall not acquire interest, direct or indirect, in the study area or any parcels therein or any other interest which would conflict in any manner or degree with the performance of his services hereunder. The Consultant further covenants that in the performance of this Contract, no person having any such interest shall be employed.

SAMPLE

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

# CERTIFICATION OF BIDDER REGARDING EQUAL EMPLOYMENT OPPORTUNITY

## INSTRUCTIONS

This certification is required pursuant to Executive Order 11246 (30 F. R. 12319-25). The implementing rules and regulations provide that any bidder or prospective contractor, or any of their proposed subcontractors, shall state as an initial part of the bid or negotiations of the contract whether it has participated in any previous contract or subcontract subject to the equal opportunity clause; and, if so, whether it has filed all compliance reports due under applicable instructions.

Where the certification indicates that the bidder has not filed a compliance report due under applicable instructions, such bidder shall be required to submit a compliance report within seven calendar days after bid opening. No contract shall be awarded unless such report is submitted.

## CERTIFICATION BY BIDDER

NAME AND ADDRESS OF BIDDER *(Include ZIP Code)*

1. Bidder has participated in a previous contract or subcontract subject to the Equal Opportunity Clause.

   ☐ Yes ☐ No

2. Compliance reports were required to be filed in connection with such contract or subcontract.

   ☐ Yes ☐ No

3. Bidder has filed all compliance reports due under applicable instructions, including SF-100.

   ☐ Yes ☐ No ☐ None Required

4. Have you ever been or are you being considered for sanction due to violation of Executive Order 11246, as amended?

   ☐ Yes ☐ No

NAME AND TITLE OF SIGNER *(Please type)*

| SIGNATURE | DATE |
|---|---|
| | |

Replaces Form HUD-4238.CD 1, which is Obsolete

HUD-95 1 (11-78)

CONTRACTOR
Section 3 Plan Format

(name of contractor) _____ agrees to implement the following specific affirmative action steps directed at increasing the utilization of lower income residents and businesses within the City of _____.

A. To ascertain from the locality's CDBG program official the exact boundaries of the Section 3 covered project area and where advantageous, seek the assistance of local officials in preparing and implementing the affirmative action plan.

B. To attempt to recruit from within the city the necessary number of lower income residents through: Local advertising media, signs placed at the proposed site for the project, and community organizations and public or private institutions operating within or serving the project area such as Service Employment and Redevelopment (SER), Opportunities Industrialization Center (OIC), Urban League, Concentrated Employment Program, Hometown Plan, or the U.S. Employment Service.

C. To maintain a list of all lower income area residents who have applied either on their own or on referral from any source, and to employ such persons, if otherwise eligible and if a vacancy exists.

*D. To insert this Section 3 plan in all bid documents, and to require all bidders on subcontracts to submit a Section 3 affirmative action plan including utilization goals and the specific steps planned to accomplish these goals.

*E. To insure that subcontracts which are typically let on a negotiated rather than a bid basis in areas other than Section 3 covered project areas, are also let on a negotiated basis, whenever feasible, when let in a Section 3 covered project area.

F. To formally contact unions, subcontractors and trade associations to secure their cooperation for this program.

G. To insure that all appropriate project area business concerns are notified of pending subcontractual opportunities.

H. To maintain records, including copies of correspondence, memoranda, etc., which document that all of the above affirmative action steps have been taken.

I. To appoint or recruit an executive official of the company or agency as Equal Opportunity Officer to coordinate the implementation of this Section 3 plan.

*Loans, grants, contracts and subsidies for less than $10,000 will be exempt.

J. To list all projected workforce needs for all phases of this project by occupation, trade, skill level and number of positions.

As officers and representatives of (name of Contractor), we, the undersigned, have read and fully agree to this Affirmative Action Plan, and become a party to the full implementation of this program.

Signature

Title Date

Signature

Title Date

# C O N T R A C T

**********

THIS AGREEMENT is entered into as of the _____ day of _____, ____, by and between the town of _____, (address) (hereinafter called the TOWN), and (consultant's name and address) (hereinafter called the CONTRACTOR).

W I T N E S S E T H :

WHEREAS, the TOWN desires to engage the CONTRACTOR to render centain services hereinafter described.

NOW THEREFORE, the parties hereto do mutually agree as follows:

I. EMPLOYMENT OF THE CONTRACTOR--Scope of Work. The TOWN hereby agrees to engage the CONTRACTOR and the CONTRACTOR hereby agrees to perform the following services necessary to assist with the development and preparation of a "TOWN Community Development Block Grant Application" for the fiscal year ____ and/or to assist with the removal of "Grant Conditions" imposed by the granting agency in the manner prescribed below:

TASKS TO BE PERFORMED:

A. To analyze the existing status of the CDBG program.

B. To meet with appropriate HUD officials to resolve problems and determine requirements that must be met in order to obtain a release of funds.

C. To meet with TOWN officials to develop a CDBG program that is acceptable to both the TOWN and the Department of HUD.

D. To assist with the preparation of documents that may be required to develop the CDBG program.

E. To make recommendations regarding alternatives and program options that may be available to the TOWN that would assure implementation of an effective CDBG program.

F. To maintain records of activities performed pursuant to this agreement.

II. COMPENSATION AND METHOD OF PAYMENT: Maximum compensation for activities performed pursuant to this agreement shall not exceed the equivalent of ten (10) man days of service. The rate of pay shall be based on an hourly rate listed below:

| Consulting Services-- | Rate |
|---|---|
| Consultant "A" | $30.00 per M/Hr. |
| Clerical (if required) | $10.00 per M/Hr. |
| Assistant (if required) | $25.00 per M/Hr. |
| Non-personnel-- | |
| Supplies | as per invoice |
| Communications | as per cost |
| Copies | 20¢ per up to 100<br>reduced rate over 100 |

The CONTRACTOR shall submit to the TOWN an invoice that will detail hours worked and activities performed during said periods of time, not to exceed the maximum amount allowed by this agreement and the TOWN shall immediately review and authorize payment due the CONTRACTOR for services rendered.

The CONTRACTOR shall be paid for services from the TOWN _____ account.

The CITY COUNCIL OF THE TOWN shall authorize all payments.

III. TIME OF PERFORMANCE: The CONTRACTOR shall immediately begin services described herein and shall work in an expeditious fashion to ensure completion of activities. Unless this agreement is modified in writing as allowed for, the CONTRACTOR shall not exceed man hour time limits established by this agreement.

IV. LIAISON. The liaison for the CONTRACTOR shall be (name). The liaison for the TOWN shall be (name) acting on behalf of the MAYOR of the TOWN or any other duly authorized official appointed by the MAYOR of the TOWN.

V. OWNERSHIP OF MATERIALS: The TOWN will own all working papers and end products of this contract.

VI. ACCESS TO RECORDS AND FILES: The CONTRACTOR will have reasonable access to all records and files related to the project that may be required to carry out tasks described herein.

The TOWN and the U.S. Department of Housing and Urban Development, or any duly authorized representative, will have full access to the CONTRACTOR records and files related to this contract for the purpose of making an audit, examination, excerpt and transcript.

VII. TERMINATION FOR CAUSE: If, for any reason, the CONTRACTOR fails to fulfill its contract obligations in a timely fashion and proper manner or if the CONTRACTOR shall violate any terms and provisions of this contract, the TOWN shall have the right to terminate this agreement by giving written notice to the CONTRACTOR five (5) working days prior to said termination.

The TOWN may also terminate this contract when it has been determined that (1) the act of termination is mutually agreed upon by each party to the agreement and (2) the continuation of work in progress would not produce results commensurate with the expenditure of funds. Should said termination occur, the CONTRACTOR shall be paid the compensation due in the same ratio as is verified by activities performed.

IX. ASSURANCES AND CERTIFICATIONS: The CONTRACTOR hereby certifies that it will comply with all applicable Federal regulations and laws during the provision of said services and that all recommendations made to the TOWN shall be offered with the same intent.

X. ASSIGNMENTS, TRANSFERS AND SUBCONTRACTING: No assignment, transfer or subcontracting of this contract shall be allowed unless agreed to by each party to the agreement.

XI. MODIFICATIONS AND PREVIOUS AGREEMENTS: This contract contains the entire agreement between the TOWN and the CONTRACTOR and no statements, promises or inducements made by any party or agents of either party, which are not contained in this agreement are valid or binding. The contract may be modified, enlarged or altered only by written agreement by each party to the contract hereto.

IN WITNESS WHEREOF the TOWN and the CONTRACTOR have executed the Contract as of the first date written below.

Town of _____:

_____

_____, Mayor

Date_____

(Name of consulting firm):

_____

_____, General Partner

Date_____

SCORING FOR EVALUATION SHEET

The following is a key for assigning points to the evaluation sheet. We have designed three different categories for scoring each section. Listed below are the scoring values for the three different types of issues:

| | Most Important | Average | Incidental |
|---|---|---|---|
| Excellent | 12 | 10 | 6 |
| Very Good | 9 | 8 | 5 |
| Average | 7 | 6 | 4 |
| Poor | 5 | 4 | 2 |
| Marginal | 3 | 1 | 1 |

Categories that should be considered most important are as follows:

* Technical Aspects - technical approach
* Technical Aspects - understanding situation
* Performance/Experience - technical
* Performance/Experience - quality of work
* Performance/Experience - follow-up corrections

Categories that should be considered of average importance are as follows:

* Technical Aspects - solicition compliance
* Technical Aspects - special factors
* Performance/Experience - cost accuracy
* Performance/Experience - regulation compliance
* Performance/Experience - inspection on-site
* Firm Qualifications - special experience
* Firm Qualifications - similar experience

Categories that should be considered incidental issues are as follows:

* Performance/Experience - schedule compliance
* Performance/Experience - training plan
* Firm Qualifications - special equipment
* Cost Analysis - cost effectiveness
* Cost Analysis - location to project
* Cost Analysis - hourly rates
* Cost Analysis - special costs

EVALUATION SHEET 1

| TECHNICAL ASPECTS | | | | | |
|---|---|---|---|---|---|
| INDIVIDUAL/FIRM | Technical Approach | Understanding of Situation | Solicitation Compliance | Special Factors | TOTAL |
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |

| FIRM QUALIFICATIONS | | | | | |
|---|---|---|---|---|---|
| INDIVIDUAL/FIRM | Special Experience | Similar Experience | Special Equipment | Principle Involved | TOTAL |
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |

## EVALUATION SHEET 2

| PERFORMANCE/EXPERIENCE | | | | | |
|---|---|---|---|---|---|
| INDIVIDUAL/FIRM | Technical | Cost Accuracy | Quality of Work | Schedule Compliance | TOTAL |
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |
| (same as above) | | | | | |
| INDIVIDUAL/FIRM | Regulation Compliance | Inspection On-site | Training Plan | Follow-up Corrections | TOTAL |
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |

## EVALUATION SHEET 3

| COST ANALYSIS | | | | | |
|---|---|---|---|---|---|
| INDIVIDUAL/FIRM | Cost Effectiveness | Location to Project | Hourly Rates | Special Costs | TOTAL |
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |

| EVALUATOR: | NARRATIVE STATEMENT (if any) | INDIVIDUAL/FIRM | TOTAL POINTS |
|---|---|---|---|
| name: | | | |
| date: | | | |
| project: | | | |

RANKING CRITERIA

CONSULTANT: _____

EVALUATOR: _____

DATE: _____

PROJECT: _____

| UNDERSTANDING THE PROBLEM | Maximum Weight | Rating |
|---|---|---|
| Evaluator has to determine how well the consultant understands the problems that led to the need for the project-- an evaluation of the entire proposal in relationship to the problems. The following will assist in making the evaluation: | | |
| (1) Are all major areas correctly identified and understood? | | |
| (2) Will the proposal fulfill the intent of the project as presented in the scope of work section of the Request for Proposal? | | |
| (3) Is proposed effort consistent with the size and nature of the problem? | | |
| (4) Are proposed statements, conclusions, and recommendations based on sound research or other studies conducted in similar areas or are they merely opinions? | | |

## CONSULTANT QUALIFICATIONS

Maximum Weight | Rating

Express your judgment of the consultant's ability to accomplish the project and/or provide the service based on his past individual and corporate experience.

The following specific points will assist:

(1) Reputation of the firm
(2) Length of time in business
(3) Previous assignments in same or similar tasks
(4) Past work record and how closely these areas of work relate to the present contract.
(5) Previous experience with local government particularly in Montana. (or appropriate state)
    (a) Number of assignments
    (b) Size of projects
    (c) Complexity of tasks

## PROFESSIONAL PERSONNEL

Maximum Weight | Rating

This rating calls for a judgement of the professional qualifications and experience of the personnel who will actually do the job.

(1) Do the proposal specifications designate the person responsible for successful completion of the program?
(2) Does Project Manager have adequate and appropriate experience in the field of manual preparation?
(3) Does Project Manager have an adequate academic background?
(4) Has Project Manager worked with Company and Personnel on other similar projects?
(5) What qualifications and number of staff will be available to perform the services listed in the work schedule?
(6) Do key personnel have adequate expertise and experience in similar projects?
(7) Are work assignments clear and precise in order to assure coordination of duties and responsibilities?

SOUNDNESS OF APPROACH CRITERIA

Maximum Weight | Rating

This rating requires an evaluation of the cousultant's proposed approach to solving the municipality's specific problem.

NOTES

(1) Does the proposal demonstrate the technique to be utilized, servicing of the contract, definition of product to be delivered, contents of delivered item, examples of anticipated product?

(2) What methodology or plan will be used to fulfill the contract? How many progress meetings will be scheduled and at what point in development of the plan? What kind of review and control will be provided to the Township? How accessible will the consultant be to the local officials?

(3) Are the numbers and types of personnel assigned to the project realistic in terms of the tasks to be performed?

(4) Does the planning show an ability to understand and anticipate implementation requirements or is planning unrealistic?

(5) Does the proposal clearly indicate that contractor has identified and presented a well-defined task description with an easily identifiable end product? How well does the consultant explain how the job is to be done?

(6) Are man hours, allocated to each task, adequate?

(7) Does training program (if required) include the personnel to be trained, the number to be trained, duration of the program, place of training, training materials, frequency of sessions and number and level of instructors?

(8) Are task target dates defined and are they reasonable? Are specific completion dates of tasks established?

(9) Is the proposal clear, well organized, concise, and well written? The proposal itself is a good indication of the kind of end product to be expected.

AVAILABLE FACILITIES | Maximum Weight | Rating

Evaluator will judge whether or not consultant has facilities and/or equipment to accomplish the project.

(1) Does the company have adequate physical facilities to conduct the program?
(2) Are facilities centrally located or does the company propose to centralize?
(3) Are facilities conveniently located so as to assure rapid communication between company and the municipality?
(4) Are facilities adequately staffed (e.g., sufficient clerical support, publications, and graphics, etc. to perform the contract)?

COST EVALUATION | Maximum Weight | Rating

The cost evaluation will be made after the individual Minimum Requirement and Qualitative Evaluation will be made by the committee as a whole.

The cost criterion is made by:

(1) Giving proposal with lowest total cost the maximum score;
(2) Rating all others by applying the following formula:

$$\frac{a}{b} \times c = d$$

a = the lowest consultant's cost
b = the second (third, etc.) consultant's cost.
c = the maximum number of points allowed for cost.
d = the second (third, etc.) contractor's rating.

RANKING CRITERIA

CONSULTANT: _____

EVALUATOR: _____

DATE: _____

PROJECT: _____

| Describe below the strong and weak points of this proposal using the attached criteria. | Evaluator's Weight | Maximum Weight |
|---|---|---|
| Understanding the problem: | | |
| Consultant qualifications: | | |
| Professional personnel: | | |
| Soundness of approach: | | |
| Availability of facilities: | | |
| Cost:<br><br>Weights to be determined by use of formula $\frac{a}{b} \times c = d$ | | |

General Comments:

APPENDIX 'C' FORMAT 2

## MINIMUM REQUIREMENTS CHECKLIST

CONSULTANT: _____

EVALUATOR: _____

DATE: _____

PROJECT: _____

1. The consultant agrees to enter into a "fixed-price contract.

_____YES _____NO

2. The proposal was received by the municipality at the time and date specified in the request for proposal.

_____YES _____NO

3. The proposal was provided in the number of copies requested.

_____YES _____NO

4. The proposal contains a statement that it will remain valid for at least 60 days.

_____YES _____NO

5. The consultant acceptes responsibility for all services offered in his proposal whether or not he performs them. This includes accepting responsibility for the performance of all subcontractors.

_____YES _____NO

6. The full name, address and, if applicable, the branch office or other subordinate element of the consultant organization is stated.

_____YES _____NO

7. The consultant's understanding of the problem is stated, or items 8 and 9 below indicate the consultant's understanding of the problem.

_____YES _____NO

8. A narrative description of the proposed effort and a list of the product that will be delivered is given.

_____YES _____NO

9. A technical plan for accomplishing the work is given in narrative form and includes tasks to be performed and manhours required by each task.

_____YES _____NO

10. Prior experience in conducting similar studies is given.

_____YES _____NO

11. Manpower required to perform all tasks is given by type and level, i.e. management, analyst, programmers, etc.

_____YES _____NO

12. The training program is described.

_____YES _____NO

13. A cost and price analysis in a separate cost proposal has been received from the consultant.

_____YES _____NO

SUMMARY EVALUATION FORM

| RATER | | | | | | | | | AVERAGES |
|---|---|---|---|---|---|---|---|---|---|
| Understanding the Problem (Maximum Weight-15) | | | | | | | | | |
| Contractor Qualifications (Maximum Weight-10) | | | | | | | | | |
| Professional Personnel (Maximum Weight-15) | | | | | | | | | |
| Soundness of Approach (Maximum Weight-40) | | | | | | | | | |
| Availability of Facilities (Maximum Weight-5) | | | | | | | | | |
| | | | | | | | | | SUBTOTAL |
| Cost (Maximum Weight-15) | $\frac{a}{b} \times c = d$ | | | | | | | | |
| | | | | | | | | | TOTAL |

APPENDIX 'D'

SAMPLE

REQUEST FOR PROPOSAL

Dear Offeror:

This is a Request for Proposal to prepare an economic development plan for the City of East Linn. The Department's Office of Community Development is planning an economic adjustment strategy and development plan to increase economic opportunities.

You are invited to submit a proposal to be received not later than 5:00 p.m. local time at the place designated for receipt of offers, Thursday August 1, 1980 to the City of East Linn, Illiana in accordance with this Request for Proposal and the following attachments:

| | |
|---|---|
| Attachment A | Problem Statement |
| Attachment B | Scope of Work |
| Attachment C | Project Schedule |
| Attachment D | Contract Type |
| Attachment E | Proposal Contents |
| Attachment F | Factors for Award/Evaluation Criteria |

The contract will be awarded to the responsible offeror whose proposal is within the competitive range and determined to be the most advantageous to the City, price and other factors considered. The factors to be considered and the method to be utilized in the evaluation of the proposals and selection of the contractor is set forth in Attachment F.

Proposal Submission

By Mail

Department of Community Development
Room B-13
211 18th Street
East Linn, Illiana

Sincerely

Lynda Johnson

Lynda Johnson
Contracting Officer

SAMPLE

RFP E-1979

## A. Problem Statement

In December 1979 the East Louisiana Widget Company, East Linn's major industry, announced a three year plan to close its factory. The company presently employs 250 persons.

The area's economic base is predominately agricultural. The majority of workers commute to work to Center City, 32 miles west of East Linn. The widget factory was the city's only major manufacturing plant. The closing of the plant is expected to have serious economic consequences for the city. The city's total population is 3500. To minimize the consequence of the plant closing, the city is developing an Economic Adjustment Strategy and Development Plan, and is seeking Consultant Assistance in its preparation.

The city is using Small Cities CDBG funds to finance the study. Approximately $25,000 has been allocated for this purpose.

## B. Scope of Work

The tasks necessary to develop an overall area-use plan that will meet the adjustment needs of the City, inclusive of transportation, industry, public-use area, recreation, tourism, health, education, and housing include:

1. Identify skills of employees adversely affected by plant cutbacks.

2. Institute an on-going program of personal contact with all local industries and business in order to identify problems that may be confronting local businessmen and provide assistance as needed.

3. Inventory all available commercial and industrial properties (private and public owned) to determine if East Linn and West Linn Parish have sufficient sites of varying sizes to serve the future needs of new and expanding industry.

4. Make a tourism market study and inventory local accommodations, services, and attractions.

5. Based on a survey of its problems and potential, develop an action plan to expand the area's income from recreation and tourism activities.

6. Determine financing needed to expand industrial and tourism promotion by the Chamber of Commerce and the East Linn Industrial Commission.

7. Conduct a labor market survey to determine available jobs in the local area.

8. Prepare draft report for review.

9. Prepare final report for review.

A Citizen Task Force has been established to provide community input into the process. The Consultant will be expected to make a minimum of three presentations to the Task Force and provide monthly Progress Reports.

C. Project Schedule

The city anticipates a six month period of performance.

D. Contract Type

The contract will be cost plus fixed fee. Cost and Pricing data must be submitted on the attached optional form 60.

E. Proposal Contents

The Proposal must contain four parts:

- Technical--describing the approach to be taken in addressing the proposed scope of work. This is to include deliniation of specific tasks to be undertaken.

- Management and staffing--describing the management plan to be used, staffing configurations and the like. This is to include a project schedule showing start and completion dates for all major tasks and a staff-loading by task chart showing individuals allocated time by task and resumes of proposed personnel.

- Prior Related Experience--a brief description of the firm's related experience including contact person and phone numbers for each referenced job.

- Cost and Pricing--Optional Form 60.

F. Factors for Award/Evaluation Criteria

| | |
|---|---|
| • Technical Approach/Understanding of Problem | 40 |
| • Work Management Plan | 10 |
| • Experience of Proposed Personnel | 20 |
| • Corporate Experience | 20 |
| • Familiarity with Local Context | 15 |
| • Cost | 20 |
| | 125 pts. |

Proposals will be reviewed by the Task Force and City Staff. No on-site interviews will be conducted. Telephone interviews may be conducted.

Questions concerning this RFP should be addressed to Lynda Johnson at area code (111) 445-7891.

APPENDIX 'D'

# REQUEST FOR CONTRACTED SERVICES

## PURPOSE

Montana has many communities with serious sewer and water needs which are not being met. Financing of new, rebuilt or expanded systems is one part of the problem. Several agencies which finance community sewer and water systems - FmHA, DNRC, DHES, CDBG, and the Montana Coal Board - are examining ways in which they can combine their financial and technical resources to assist local governments to meet these needs. The overall goals are to: (1) coordinate and maximize the benefit from state resources and federal resources, and, (2) to improve application procedures for local government applicants.

## SCOPE OF WORK

The Contractor shall perform the following tasks:

(1) Review and analyze current water and sewer grant/loan application forms, criteria and processes for FmHA, DNRC, DHES, CDBG and the Montana Coal Board.

(2) Prepare a funding cycle time line for each agency illustrating critical decision points. Analyze the agencies time lines side by side in order to identify restraints to and/or opportunities for interagency cooperation in financing projects.

(3) Analyze and diagram, in matrix form, an overview of each agency's program limitations (e.g. dollar caps, eligibility criteria, statutory requirements, funding/ranking criteria, etc.) which may inhibit joint funding. A matrix (or other graphics) which

illustrates the limitations of all the agencies collectively by topic (e.g. dollar cap) shall be developed.

(4) Analyze the feasibility of developing integrated application procedures (e.g., application review, applicant "routing", ranking/eligibility criteria) and forms which all agencies, or some combination of agencies, could institute in order to coordinate information and funding and to reduce "red tape" for applicants.

(5) Complete related research as developed through consultation with the interagency review team.

(6) Work closely with the agencies involved and make written and oral presentations to the interagency review team.

## TIME PERIOD FOR COMPLETION

All work shall be completed within four weeks from the date of the signing of the contract.

## CONTRACT AMOUNT

We have allocated a maximum of $3,500.00 for this contract.

## PRE-SELECTION CONFERENCE

In order to help the Contractor to understand our needs we wish to confer with the Contractor prior to the submission of any proposal.

## DEADLINES

Conference must be held prior to December 17, 1982. Written proposals must be received no later than the end of business on December 23, 1982. Contractor should be available to begin work on January 3, 1983.

## CONTACT PERSON

For futher information or to arrange a conference, contact:

Jack Vaughn
Montana Department of Commerce
1424 9th Avenue
Helena, MT 59601
(406) 449-3757

# REQUEST FOR PROPOSAL

for a

# DESIGN ENGINEER

for

(name of project)

## I. SUBMISSION INSTRUCTIONS

The place, time, and date for submittal should be indicated here. The number of copies required and the name of a contact person should be included for any inquiries. If a pre-submittal conference will be held, it should be noted in this section.

## II. INTRODUCTION

This section should state what organization is issuing the RFP and give a brief description of the issuing organization. The amount budgeted for the project should be specified. Any relevant responsibilities, authority, or jurisdiction of agencies involved should be clearly defined.

This section should also describe the project or problem, its location, current status, and current schedule. The source of funds and any local, state or federal requirements applicable to the project also should be included in this section. The more specific details of the work required will be included in the "Project Description" section; therefore, the description here does not need to be very detailed.

Sample project description:

The project will be funded by _____ _____It consists of designing a new _____ _____ for ____ connections (___ people) on ___ acres _____ _____The source of water will be_____ _____. No preliminary engineering work has been completed. The project is planned to begin construction in the_____.

## III. PROJECT DESCRIPTION

The purpose of this section is to give the consultants a good idea of the complexity and level of effort involved in the project. Any unusual or special aspects must be clearly stated here. If a detailed alternative analysis involving unusual or innovative aspects is desired, here is the place to make that clear. This will hopefully encourage consultants to deal with the project in a creative manner.

The ultimate goal or objective of the project needs to be stated, and each basic component of the project needs to be described. The present status of the project should also be explained, including any scheduling or time frame constraints. Any maps, drawings, or other background data required to better describe the project should be included as an appendix.

In this section, the community or agency should list the specific services required. Be as thorough as possible. To the consultant, this is the most important section. It is the section they will us to develop their scope of work. Be careful not to tell the consultant how to do the required tasks. Just list what work is needed. This will hopefully encourage independent thinking and result in

more creative proposals. The time frame for each major task or milestone should also be given. This time frame will probably change, but with a given time frame it will make it easier to evaluate the proposals. Also, it should be specified that these services will be provided under the overall direction of a specific person.

The amount budgeted for the project and the type of contract should be described. The amount budgeted gives consultants an indication of what depth of effort is expected. And the type of contract is necessary in order for the consultant to prepare a cost proposal. Some common types of contracts are: fixed fee, time and materials, cost plus, per diem, retainer, and percentage of construction cost. Each type of contract has its advantages and disadvantages. For example, in a fixed fee contact, the contractor assumes all the risk -- the job is guaranteed to be done for a fixed price so the community or owner of the project has no risk involved. However, because of the risk involved for the contractor, a fixed fee contract may cost more than contracts where the owner of the project also assumes some risk. Therefore, if a job is well defined, a reasonable fixed fee contract may be negotiated; but if a job involves some undefined segments, the fixed fee price a contractor will be comfortable with may not be affordable. In this case, other types of contracts should be specified. But be certain that the owner of the project is able to assume the management responsibilities of whatever type of contract that is specified.

The following is a sample list of services which may be needed from a design engineer:

- Perform necessary design surveys

- Accomplish the detailed design of the project

- Prepare construction drawings, specifications, and contract documents. These drawings and specifications shall be in sufficient detail to permit the actual location of the proposed improvements on the ground, and shall include _____ endorsed construction contract documents, including _____ Supplemental General Conditions, contract change orders and partial payment estimates.

- Prepare a final cost estimate based on the final design for the entire system.

- Furnish coordination of any required subsurface explorations.

- Prior to the advertisement for bids, the engineer must provide, at his expense, a maximum of ten copies of detailed drawings, specifications and contract documents as required by prospective bidders, material suppliers and other interested parties. However, they may charge a reasonable cost for such copies. In addition, upon the award of the contract, the engineer will furnish to the owner five sets of drawings, specifications and contract documents for execution. The cost of these documents shall be included in the engineer's proposal.

- Attend the construction contract bid opening; tabulate, analyze and make recommendations for awarding the construction contract.

- Review and approve for conformance with the design concept any necessary shop and working drawings furnished by contractors.

- Interpret the intent of the drawings and specifications to protect the owner against defects and deficiencies in construction on the part of the contractors.

- Establish baselines for locating the work together with a suitable number of bench marks adjacent to the work as shown in the contract documents.

- Provide general engineering review of the work of the contractors as construction progresses to ascertain that the contractor is conforming with the design concept.

- The engineer will cooperate and work closely with the community action committee and all funding and regulatory agencies.

- The engineer shall be prepared to act as resident inspector. In the proposal pricing, this item shall be broken out separately.

- Provide and oversee field and office surveying

- Assist in presentations to (name of agency's board) for various reports and other pertinent data as the (name of agency's person in charge) may require.

- The engineer will review the contractor's applications for progress and final payment and when approved, submit them to the owner for payment.

- The engineer will prepare the necessary contract change orders for approval by the owner and _____ and others on a timely basis.

- The engineer will make a final review prior to the issuance of the Statement of Substantial Completion of all construction and submit a written report to the owner and _____Prior to submitting the final pay estimate, the engineer shall submit a statement of completion to and obtain the written acceptance of the facility from the owner and

- The engineer will provide one set of reproducible record drawings and two sets of prints. The cost of that shall be included in this proposal.

- The engineer will be available to furnish engineering services and consultations necessary to correct unforeseen project operation difficulties for a period of one year from the date of Statement of Substantial Completion of the facility. This service will include instruction of the owner in the initial project operation and maintenance and will not include supervision of normal operation of the system. Such consultation and advice shall be furnished without additional charge except for travel and subsistence costs.

- Prepare a site specific operation and maintenance manual which includes a description of the system, a maintenance schedule, a troubleshooting section, a component list, and all manufacturers literature.

- Prepare research for and develop a user charge system to pay for operation and maintenance costs of the facility design and construction.

- In addition to the foregoing items, the following services may be required during the project design. The engineer shall provide a lump sum fee to handle all additional engineering services outlined below.

a. Site surveys for the water plants, reservoir and other similar special surveys as may be required.

b. Laboratory tests, well test, borings, specialized geological, soils, hydraulic, or other studies recommended by the consultant.

c. Property surveys, detailed description of sites, maps, drawings of estimates related thereto. Assistance in negotiating for land litigation.

d. Redesigns ordered by the owner after final plans have been accepted by the owner and _____, except redesigns to reduce the project cost within the funds available.

e. Appearances before courts or boards on matters of litigation or hearings related to the project.

f. Preparation of environmental impact assessments or environmental impact statements.

g. Performance in detailed staking necessary for construction of the project in excess of the control staking as previously mentioned.

h. Any other engineering services essential to completing the design engineering and bid package.

The proposal must include a detailed cost estimate. The pricing must be broken down on a per item basis corresponding to the items presented here.

## V. CONSULTANT'S PROPOSAL AND QUALIFICATIONS

In this section, the engineer, consulting firm, or individual submitting a proposal to do the work described in the RFP should include their related experiences, qualifications, and how they plan to undertake the project.

The following are examples of what may be requested to be included in the consultant's proposal:

- Name and address of main office.

- A resume of the individual(s) who would be assigned to the design team. Special emphasis on experiences in similar projects should be included within each resume. Identify the specific individual(s) who will actually do the design work. The project manager or the design engineer must be a registered civil engineer with experience in similar projects.

- The consultant must submit a brief statement (1,000 - 1,500 words) telling how he will undertake this project, and why the consultant or individual eels that he or she or their firm should be considered for this project.

- A list of recent projects, including type of project, size of project (population served), location, total construction cost, name and address of the responsible agency awarding the planning, design, and/or construction contract, and name and address of responsible community or district representative. A brief statement describing each project and the specific work performed by the consultant should be included.

- Indicate familiarity with the particular funding source(s) and regulatory agencies applicable to this project.

- Develop a detailed work plan (scope of work) with cost estimates according to the items identified in the "Description of Services Required" section.

- Any additional items that may help in determining the qualifications for performing the required work.

## VI. PROPOSAL EVALUATION

This section should contain the evaluation criteria and the value assigned to each. If a schedule for selection and award is available, it should be included. The basis on which the award will be made must be stated.

Prepared by Rural Community Assistance Corporation, 1983

APPENDIX 'E'

ATTACHMENT O
Circular No. A-102

# PROCUREMENT STANDARDS

## 1. Applicability

a. This Attachment establishes standards and guidelines for the procurement of supplies, equipment, construction and services for Federal assistance programs. These standards are furnished to ensure that such materials and services are obtained efficiently and economically and in compliance with the provisions of applicable Federal law and executive orders.

b. No additional procurement requirements or subordinate regulations shall be imposed upon grantees by executive agencies unless specifically required by Federal law or executive orders or authorized by the Administrator for Federal Procurement Policy. This prohibition is not applicable to payment conditions issued in accordance with Treasury Circular 1075, individual grantee requirements pursuant to Section 10 of the basic circular or the provisions of this or other OMB circulars.

c. Provisions of current subordinate requirments not conforming to this Attachment shall be rescinded by grantor agencies unless approved by the Office of Federal Procurement Policy (OFPP).

## 2. Grantee/Grantor Responsibility

a. These standards do not relieve the grantee of any contractual responsibilities under its contracts. The grantee is responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements entered in support of a grant. These include but are not limited to source evaluation, protests, disputes, and claims. Executive agencies shall not substitute their judgment for that of the grantee unless the matter is primarily a Federal concern. Violations of law are to be referred to the local, State, or Federal authority having proper jurisdiction.

b. Grantees shall use their own procurement procedures which reflect applicable State and local laws and regulations, provided that procurements for Federal Assistance Programs

conform to the standards set forth in this Attachment and applicable Federal law.

3. Grantee Procurement Improvement

Executive agencies awarding Federal grants or other assistance which require or allow for procurement by the recipients are encouraged to assist recipients in improving their procurement capabilities by providng them with technical assistance training, publications, and other aid.

4. Procurement System Reviews

a. Executive agencies are encouraged to perform reviews of their grantees' procurement systems if a continuing relationship with the grantee is anticipated or a substantial amount of the Federal assistance is to be used for procurement and review of individual contracts is anticipated. The purpose of the review shall be to determine: (1) whether a grantee's procurement system meets the standards prescribed by this Attachment or other criteria acceptable to the OFPP, such provisions of the Model Procurement Code for State and local government; and (2) whether the grantee's procurement system should be certified by the reviewing agency. Such a review will also give an agency an opportunity to give technical assistance to a grantee to remedy its procurement system if it does not fully comply. In addition, such a review may provide a basis for deciding whether the grantee's contracts and related procurement documents should be subject to the grantor's prior approval, as provided by Section 6.

b. In conducting procurement system review, grantor agencies will evaluate a grantee's procurement system in terms of whether it complies with the standards prescribed by this Attachment and represents a fair, efficient and effective procurement system. To the maximum extent feasible, reviewers will rely upon State or local evaluations and analyses performed by agencies or organizations independent of the grantee contracting activity.

c. When a Federal grantor agency completes a procurement review, it shall furnish a report to the grantee, with a copy to OFPP.

d. All agencies should normally rely upon the resultant findings or certification for a period of 24 months before another review is performed.

e. Reviews shall be conducted in accordance with standards and guidelines approved or issued by OFPP.

f. The reviews authorized by Section 6 are waived if a grantee's procurement system is certified.

5. Protest Procedures

a. Grantor agencies may develop an administrative procedure to handle complaints or protests regarding grantee contractor selection actions. The procedure shall be limited as follows:

a. No protest shall be accepted by the grantor agency until all administrative remedies at the grantee level have been exhausted.

b. Review is limited to:

(i) Violations of Federal law or regulations. Violations of State or local law shall be under the jurisdiction of State or local authorities.

(ii) Violations of grantee's protest procedures or failure to review a complaint or protest.

6. Grantor Review of Proposed Contracts

Federal grantor pre-award review and approval of the grantee's proposed contracts and related procurement documents, such as requests for proposal and invitations for bids, is permitted only under the following circumstances:

a. The procurement is expected to exceed $10,000 and is to be awarded without competition or only one bid or offer is received in response to solicitation.

b. The procurement expected to exceed $10,000 specifies a "brand name" product; or

c. The grantee's procurement procedures or operation fails to comply with one or more significant aspects of this Attachment. The grantor agency shall notify the grantee in writing, with a copy of such notification to the OFPP.

7. Code of Conduct

Grantees shall maintain a written code or standards of conduct which shall govern the performance of their officers, employees or agents engaged in the award and administration of contracts supported by Federal funds. No employee, officer or agent of the grantee shall participate in selection, or in the award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:

a. The employee, officer or agent;

b. Any member of his immediate family;

c. His or her partner; or

d. An organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award.

The grantee's officers, employees or agents shall neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to subagreements.

Grantees may set minimum rules where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value.

To the extent permitted by State or local law or regulations, such standards of conduct shall provide for penalties, sanctions, or other disciplinary actions for violations of such standards by the grantee's officers, employees, or agents, or by contractors or their agents.

8. Procurement Procedures

The grantee shall establish procurement procedures which provide that proposed procurement actions shall be reviewed by grantee officials to avoid the purchase of unnecessary or duplicative items. Consideration should be given to consolidation or breaking out to obtain a more economical purchase. Where appropriate, an analysis shall be made of lease versus purchase alternatives, and any other appropriate analysis to determine which approach would be the most economical. To foster greater economy and efficiency, grantees are encouraged to enter into State and local intergovernmental agreements for procurement or use of common goods and services.

9. Contracting with Small and Minority Firms, Women's Business Enterprise and Labor Surplus Area Firms

a. It is national policy to award a fair share of contracts to small and minority business firms. Accordingly, affirmative steps must be taken to assure that small and minority businesses are utilized when possible as sources of supplies, equipment, construction and services. Affirmative steps shall include the following:

(1) Including qualified small and minority businesses on solicitation lists.

(2) Assuring that small and minority businesses are solicited whenever they are potential sources.

(3) When economically feasible, dividing total requirements into smaller tasks or quantities so as to permit maximum small and minority business participation.

(4) Where the requirement permits, establishing delivery schedules which will encourage participation by small and minority business.

(5) Using the services and assistance of the Small Business Administration, the Office of Minority Business Enterprise of the Department of Commerce and the Community Services Administration as required.

(6) If any subcontracts are to be let, requiring the prime contractor to take the affirmative steps in 1 through 5 above.

b. Grantees shall take similar appropriate affirmative action in support of women's business enterprises.

c. Grantees are encouraged to procure goods and services from labor surplus areas.

d. Grantor agencies may impose additional regulations and requirements in the foregoing areas only to the extent specifically mandated by statute or presidential direction.

10. Selection procedures

a. All procurement transactions, regardless of whether by sealed bids or by negotiation and without regard to dollar value, shall be conducted in a manner that provides maximum open and

free competition consistent with this Attachment. Procurement procedures shall not restrict or eliminate competition. Example of what is considered to be restrictive of competition include, but are not limited to: (1) placing unreasonable requirements on firms in order for them to qualify to do business; (2) noncompetitive practices between firms; (3) organizational conflicts of interest; and (4) unnecessary experience and bonding requirments.

b. The grantee shall have written selection procedures which shall provide, as a minimum, the following procedural requirements:

(1) Solicitations of offers, whether by competitive sealed bids or competitive negotiation shall:

(a) Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description shall not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured, and when necessary, shall set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a "brand name or equal" description may be used as a means to define the performance or other salient requirements of a procurement. The specific features of the named brand which must be met by offerors shall be clearly stated.

(b) Clearly set forth all requirements which offerors must fulfill and all other factors to be used in evaluating bids or proposals.

(2) Awards shall be made only to responsible contractors that possess the potential ability to perform successfully under the terms and conditions of a proposed procurement. Consideration shall be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.

11. Method Procurement

Procurement under grants shall be made by one of the following methods, as described herein: (a) small purchase procedures; (b) competitive sealed bids (formal advertising); (c) competitive negotiation; (d) noncompetitive negotiation.

a. Small purchase procedures are those relatively simple and informal procurement methods that are sound and appropriate for a procurement of services, supplies or other property, costing in the aggregate not more than $10,000. Grantees shall comply with State or local small purchase dollar limits under $10,000. If small purchase procedures are used for a procurement under a grant, price or rate quotations shall be obtained from an adequate number of qualified sources.

b. In competitive sealed bids (formal advertising), sealed bids are publicly solicited and a firm-fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is lowest in price.

(1) In order for formal advertising to be feasible, appropriate conditions must be present, including, as a minimum, the following:

(a) A complete, adequate and realistic specification or purchase description is available.

(b) Two or more responsible suppliers are willing and able to compete effectively for the grantee's business.

(c) The procurement lends itself to a firm-fixed-price contract, and selection of the successful bidder can appropriately be made principally on the basis of price.

(2) If formal advertising is used for a procurement under a grant the following requirements shall apply:

(a) A sufficient time prior to the date set for opening of bids, bids shall be solicited from an adequate number of known suppliers. In addition, the invitation shall be publicly advertised.

(b) The invitation for bids, including specifications and pertinent attachments, shall clearly define the items or services needed in order for the bidders to properly respond to the invitation.

(c) All bids shall be opened publicly at the time and place stated in the invitation for bids.

(d) A firm-fix-price contract award shall be made by written notice to that responsible bidder whose bid, conforming to the invitation for bids, is lowest. Where specified in the bidding documents, factors such as discounts, transportation costs and life cycle costs shall be considered in determining which bid is lowest. Payment discounts may only be used to determine low bid when prior experience of the grantee indicates that such discounts are generally taken.

(e) Any or all bids may be rejected when there are sound documented business reasons in the best interest of the program.

c. In competitive negotiation, proposals are requested from a number of sources and the Request for Proposal is publicized, negotiations are normally conducted with more than one of the sources submitting offers, and either a fixed-price or cost-reimbursable type contract is awarded, as appropriate. Competitive negotiation may be used if conditions are not appropriate for the use of formal advertising. If competitive negotiation is used for a procurement under a grant, the following requirements shall apply:

(1) Proposals shall be solicited from an adequate number of qualified sources to permit reasonable competition consistent with the nature and requirements of the procurement. The Request for Proposal shall be publicized and reasonable requests by other sources to compete shall be honored to the maximum extent practicable.

(2) The Request for Proposal shall identify all significant evaluation factors, including price or cost where required and their relative importance.

(3) The grantee shall provide mechanisms for technical evaluation of the proposals received, determinations of responsible offerors for the purpose of written or oral discussions, and selection for contract award.

(4) Award may be made to the responsible offeror whose proposal will be most adavantageous to the procuring party, price and other factors considered. Unsuccessful offerors should be notified promptly.

(5) Grantees may utilize competitive negotiation procedures for procurement of architectural/engineering professional services, whereby competitors' qualifications are evaluated and the most qualified competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation.

d. Noncompetitive negotiation is procurement through solicitation of a proposal from only one source, or after solicitation of a number of sources, competition is determined inadequate. Noncompetitive negotiation may be used when the award of a contract is infeasible under small purchase, competitive bidding (formal advertising) or competitive negotiation procedures. Circumstances under which a contract may be awarded by noncompetitive negotiation are limited to the following:

(1) The item is available only from a single source;

(2) Public exigency or emergency when the urgency for the requirement will not permit a delay incident to competitive solicitation;

(3) The Federal grantor agency authorizes noncompetitive negotiation; or

(4) After soliciation of a number of sources, competition is determined inadequate.

e. Additional innovative procurement methods may be used by grantees with the approval of the grantor agency. A copy of such approval shall be sent to the OFPP.

12. Contract Pricing

The cost plus a percentage of cost and percentage of construction cost method of contracting shall not be used. Grantees shall perform some form of cost or price analysis in connection with every procurement action including contract modifications. Costs or prices based on estimated costs for contracts under grants shall be allowed only to the extent that costs incurred or cost estimates included in negotiated prices are consistent with Federal cost principles.

13. Grantee Procurement Records

Grantees shall maintain records sufficient to detail the significant history of a procurement. These records shall

include, but are not necessarily limited to information pertinent to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the cost or price.

14. Contract Provision

In addition to provisions defining a sound and complete procurement contract, any recipient of Federal grant funds shall include the following contract provisions or conditions in all procurement contracts and subcontracts as required by the provision, Federal law or the grantor agency.

a. Contracts other than small purchases shall contain provisions or conditions which will allow for administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate.

b. All contracts in excess of $10,000 shall contain suitable provisions for termination by the grantee including the manner by which it will be effected and the basis for settlement. In addition, such contracts shall describe conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the contractor.

c. All contracts awarded in excess of $10,000 by grantees and their contractors or subgrantees shall contain a provision requiring compliance with Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41 CFR Part 60).

d. All contracts and subgrants for construction or repair shall include a provision for compliance with the Copeland "Anti-Kickback" Act (18 USC 874) as supplemented in Department of Labor regulations (29 CFR, Part 3). This Act provides that each contractor or subgrantee shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled. The grantee shall report all suspected or reported violations to the grantor agency.

e. When required by the Federal grant program legislation, all construction contracts in excess of $2,000 awarded by grantees and subgrantees shall include a provision for compliance

with the Davis-Bacon Act (40 USC 276a to a-7) as supplemented by Department of Labor regulations (29 CFR, Part 5). Under this Act contractors shall be required to pay wages to laborers and mechanics at a rate not less than the minimum wages specified in a wage determination made by the Secretary of Labor. In addition, contractors shall be required to pay wages not less often than once a week. The grantee shall place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation and the award of a contract shall be conditioned upon the acceptance of the wage determination. The grantee shall report all suspected or reported violations to the grantor agency.

f. Where applicable, all contracts awarded by grantees and subgrantees in excess of $2,000 for construction contracts and in excess of $2,500 for other contracts which involve the employment of mechanics or laborers shall include a provision for compliance with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 USC 327-330) as supplemented by Department of Labor regulations (29 CFR, Part 5). Under Section 103 of the Act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of standard workday of 8 hours and a standard workweek of 40 hours. Work in excess of the standard workday or workweek is permissible provided that the worker is compensated at a rate of not less than 1-1/2 times the basic rate of pay for all hours worked in excess of 8 hours in any calendar day or 40 hours in the work week. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health and safety as determined under construction, safety and health standards promulgated by the Secretary of Labor. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

g. The contract shall include notice of grantor agency requirements and regulations pertaining to reporting and patent rights under any contract involving research, developmental, experimental or demonstration work with respect to any discovery or invention which arises or is developed in the course of or under such contract, and of grantor agency requirements and regulations pertaining to copyrights and rights in data.

h. All negotiated contracts (except those awarded by small purchase procedures) awarded by grantees shall include a

provision to the effect that the grantee, the Federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the contractor which are directly pertinent to that specific contract, for the purpose of making audit, examination, excerpts, and transcriptions.

Grantees shall require contractors to maintain all required records for three years after grantees make final payments and all other pending matters are closed.

i. Contracts, subcontracts, and subgrants of amounts in excess of $100,000 shall contain a provision which requires compliance with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 USC 1857(h)), Section 508 of the Clean Water Act (33 USC 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR, Part 15), which prohibit the use under non-exempt Federal contracts, grants or loans of facilities included on the EPA List of Violating Facilities. The provision shall require reporting of violations to the grantor agency and to the USEPA Assistant Administrator for Enforcement (EN-329).

j. Contracts shall recognize mandatory standards and policies relating to energy efficiency which are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (P.L. 94-163).

Grantor agencies are permitted to require changes, remedies, changed conditions, access and record retention and suspension of work clauses approved by the Office of Federal Procurement Policy.

15. Contract Administration

Grantees shall maintain a contract administration system ensuring that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.

APPENDIX 'F'

POSSIBLE INTERVIEW QUESTIONS

FIRM/INDIVIDUAL: _____

Date of Interview: _____

Place of Interview: _____

Interview Conducted by: _____

_____

_____

Instructions: Check the questions you intend to use before the interview session and if desired make summary notes in the space provided.

____1. In what communities has your firm been involved in similar projects, and which, if any, are rural like ours? When?

_____ Dates _____

_____ _____

_____ _____

_____ _____

____2. Has your firm had any experience in the recommendation and implementation of alternative systems? If so, in what manner?

____3. What experience has your firm had in dealing with funding and regulatory agencies?

____4. What plans does your firm have for a public participation program? (ex: Public meetings, notices, signs, etc.)

____5. What projects are your firm currently engaged in? What is anticipated for the near future? If selected, when would work commence and when could we anticipate completion?

Projects_____ Start Date:

_____ _____

_____ Finish Date:

_____ _____

____6. In what phase is your firm's work in other towns/counties/districts similiar to ours?

____7. Can you tell us, in broad terms, what type of solution you would recommend to solve the problems in our area? What have you recommended in other places?

____8. Who would be in charge of the project if your firm had the contract?

Name: _____ Experience: _____

_____ _____

_____

____9. How much time will that person be on the job-site?

____10. Who will have the authority to make required change?

Name: _____

____11. What kind of quality control will your firm institute?

____12. Are there any special capabilities offers?

____13. Are you aware of any potential conflict of interest you may encounter?

Are you working in this area with any other group?

____14. What kind of insurance and bonding does your firm carry?

____15. What type of cost arrangement do you prefer?

_____ Why?_____

_____

____16. Do you have any special concerns or issue you feel of which we should be aware?

_____

_____

_____

Close-with

____17. That's all the questions we have. Thank you for your time and sharing your thoughts. As we mentioned earlier, we will be contacting everyone interviewed next week. We'd appreciate you leaving the names of some contacts in the other communities you've worked. Thank you again.

APPENDIX 'G'

## RESOURCE LIST

For specific information regarding specialized professional services contact the following:

### ARCHITECTURE:

Montana Chapter of the American Institute of Architects
% JoAnn Harris
Executive Secretary
P.O. Box 20996
1629 Avenue D Suite 5
Billings, Montana 59104
(406) 259-7300

### ENGINEERING:

Consulting Engineers Council of Montana
% Stan Meyer
Executive Secretary
Wendt Advertising
P.O. Box 2128
Great Falls, Montana 59403

### ACCOUNTING:

Montana Society of Certified Public Accountants
Diamond Block Underground Suite 3
P.O. Box 521
Helena, Montana 59624
(406) 442-7301

Municipal Finance Officers Associations
180 North Michigan Avenue
Chicago, Illinois 60601
(312) 977-9700

Montana Municipal Clerks, Treasurers & Finance Officers Association
% Sam Boggess
City of Billings
P.O. Box 1178
Billings, Montana 59103
(406) 245-8989

Council of Municipal Performance
John Tepper Marlin, President
84 Fifth Avenue
New York, New York, 10011
(212) 243-6603

Resource List continued:

* LEGAL:

Montana Bar Association
Kent Purcell, Director
P.O. Box 4669
Helena, Montana 59601
(406) 442-7660

* PLANNING:

John Waxman
American Planning Association
1313 East 60th Street
Chicago, Illinois 60638

Montana Association of Planners
Nick Kaufman, President
Sorenson and Company
P.O. Box 3418
Missoula, Montana 59806
(406) 728-4611

* ECONOMIC DEVELOPMENT:

Montana Economic Development Association
Carol Daley, President
P.O. Box 1093
Helena, MT. 59624
Home Phone: (406) 443-3038

* GOVERNMENT RELATED ISSUES:

* Contact the Directors' office of the state agency that is most likely to deal with the issue you are concerned about.

* Montana Association of Counties
Mike Stevens, Director
1802 11th Avenue
Helena, MT. 59601
(406) 449-5209

* Montana League of Cities and Towns
Alec Hanson, Director
Box 1704
Helena, MT. 59624
(406) 442-8768

* Citizens Advocate Office
% Kathy McGowan
Office of Citizens Advocate
Room 216
State Capitol
Helena, Montana 59620
(406) 449-3468
or
1-800-332-2272 (toll free)

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| 5. Harvey Watts | City of Miles City |
| 6. Dennis Johnston | Big Sky Haul-Away |
| 7. Kristi Branch | Mountain West Research |
| 8. Norm Klein | Montana Department of Administrations |
| 9. Ron Foltz | Montana Society of C.P.A.s |
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| 11. Larry LaCounte | Lodge Grass Schools |
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| 17. LaVonne Adair | Treasure County |
| 18. Tom Lippert | Big Horn County |
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| 24. Dayton Alsaker | HWS-Plains Engineering |
| 25. Dan Watson | City of Forsyth |
| 26. Penny Pierson | Montana Contractors Association |
| 27. Larry Davis | Computer Land |
| 28. Dave Simpson | Westmoreland Resources |
| 29. Alice Kuehn | Ekalaka |
| 30. Ed McCaffrey | Rosebud County |
| 31. Mike Greely | Montana Attorney General |
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1. Municiple Finance Officer Association
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